

31. 02.12.2024
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1602 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **NCB Crime No. 22/2022** dated under Section **8(c)** read with Sections **15(c)/29** of the NDPS Act, 1985.

And

In the matter of: - **Dilip Tiwari**

...petitioner.

Mr. Joy Chakraborty
Mr. Sandip Dinda

...for the petitioner.

Mr. Anirban Mitra
Mr. Somnath Adhikary

...for the NCB.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for about two years and one month. He had approached this Court for bail by filing CRM (NDPS) 1025 of 2024. In its order dated July 3, 2024, this Bench noted that a co-accused person had approached this Court for relaxation of conditions of bail which he had been granted earlier. That application was disposed of by directing the Trial Court to complete the trial on a day-to-day basis and conclude the same within six months from the next date fixed for recording of evidence. This Bench noted that in spite of the aforesaid direction, the Trial was far from being concluded. On the request of the prosecution, this Bench had granted three months more from the next date fixed for recording of evidence for

conclusion of the trial, if necessary, by holding the trial on day-to-day basis.

2. The petitioner says that in spite of the aforesaid directions, the trial is still pending. He prays for bail on the touchstone of Article 21 of the Constitution of India.
3. While opposing the prayer for bail, learned Advocate for Narcotics Control Bureau (NCB) says that five witnesses have been examined fully. The examination-in-chief of PW6 is complete. Part cross-examination of PW6 is also complete. In all, the prosecution will examine seven witnesses. Therefore, the trial is on the verge of conclusion. Huge quantity of poppy straw, which is a contraband item, was recovered from the accused persons including this petitioner. Learned Advocate further points out that this bail application was filed on September 23, 2024, prior to expiry of three months granted by the order dated July 3, 2024. Therefore, bail should not be granted to the petitioner.
4. The prosecution may have a very strong case against the petitioner. We say nothing on merits. However, two years and one month is far too long a period of time to keep an under-trial in incarceration without bringing the trial to its logical conclusion. Twice time-periods were indicated by this Court within which the trial was to be concluded. Such time-frame has not been adhered to.
5. By the said order dated July 3, 2024, this Bench had clarified that if the trial is not concluded within the time

period indicated in that order, the petitioner will be entitled to renew his prayer for bail.

6. In view of the aforesaid, we are inclined to allow the petitioner's prayer for bail.
7. Accordingly, we direct that the petitioner, namely, **Dilip Tiwari** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Bench-I, NDPS Act, City Sessions Court, Calcutta, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall remain within the territorial jurisdiction of Burrabazar Police Station, Kolkata-700001, except for the purpose of attending Court proceedings and shall meet the Inspector-in-Charge of Burrabazar Police Station, once in a week, until further orders.
8. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

9. The application for bail being CRM (NDPS) 1602 of 2024 is accordingly disposed of.
10. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)