

16.12.2024
Item no. 26.
Court No.29.
AB
(Allowed)

CRM (NDPS) 1580 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Raninagar Police Station Case No.576 of 2022 Dated 24.12.2022 under Sections 21C/29 of the NDPS Act

And

In the matter of : Esob Sekh

.....Petitioner.

Mr. Arnab Chatterjee,
Ms. Poulami Bose,
Ms. Dhanasree Biswasfor the Petitioner.

Mr. Bitoshok Banerjee,
Ms. Suruchi Sahafor the State.

Dictated by Apurba Sinha Ray, J.

1. Report filed by the State, be kept with the records.
2. Learned Counsel for the petitioner has submitted that the petitioner is languishing in the judicial custody for about two years and there is no chance of an early conclusion of the trial since out of 11 charge sheet named witnesses, only 3 witnesses have been examined. Learned Counsel has also drawn our attention to the order dated October 11, 2023, passed by a learned Single Judge, containing certain directions for expeditious disposal of the case but that directions were not complied with in letter and spirit. The petitioner may be enlarged on bail on any condition.

3. Learned Advocate for the State has raised objection to the bail prayer. According to him, the trial has progressed to a great extent and within a few months, the examination of the remaining witnesses will be completed. Learned Counsel has also pointed out that 725 bottles of phensedyl syrup were recovered from the possession of the present petitioner and if the present petitioner is granted bail, the prosecution may suffer.
4. We have considered the materials on record. We find that there was a direction given by a learned Single Judge, which reads as follows:

“It has been submitted that there are 11 witnesses.

Accordingly, the ld. Trial Court would fix a schedule consisting of three dates and fix such schedule in regular manner so that the trial of the case can be taken to its logical conclusion within a reasonable period of time. No unnecessary adjournment shall be granted to either of the parties.

Ld. Public Prosecutor conducting the case would produce the materials, documents and exhibits on the next date fixed for examination of the witnesses. All stakeholders would cooperate with the ld. trial court for concluding the trial at the earliest.

With the aforesaid observations, CRR 3676 of 2023 is disposed of.”

5. It appears that the above directions have not been complied with by the prosecution. The petitioner is in custody for about two years and there is no chance of an early conclusion of the trial. We know that the fundamental right to speedy trial and personal liberty of an under-trial is an important right which cannot be

abrogated by the prosecution by delaying the progress in the trial.

6. In view of the above, we are inclined to enlarge the petitioner on bail.
7. Accordingly, we direct that the petitioner, namely **ESOB SEKH** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Berhampore, Murshidabad, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
8. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
9. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
10. The application for bail is, accordingly, allowed.

11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)