

14.11.2024
tkm/ct 28
sl no. 48

C.R.M. (NDPS) 1640 of 2024

In Re : An application for bail under section 483 of the BNSS 2023 in connection with Kaliachak P.S case no. 544 of 2020 dated 11.7.2020 under sections 21(c)/29 of the NDPS Act read with sections 14(A)/14(b)/14(c) of the Foreigners Act
And

Allowed

In Re : Alam Ali

... petitioner

Md. Wasim Akram

..... for the petitioner

Ms. anusuya Sinha

Mr. Amanul Islam

..... for the State

1. Petitioner is in custody for more than four years. Petitioner is a Bangladeshi national. He contends there is inordinate delay in trial. He prays for bail on the ground of delay.
2. Learned lawyer for the State submits most of the witnesses are BSF personnel who are presently posted in Jammu & Kashmir. As a result witness action was delayed.
3. We have considered the materials on record. In *Bibekananda Pramanik vs. State of West Bengal & Ors.*¹ this court directed in the event police personnel of central agencies are posted elsewhere, their evidence may be recorded through video linkage. Unfortunately the directions fell on deaf ears and no steps were taken to institutionalize this practice which is self evident in the lackadaisical manner in which the prosecution has been conducted in this case. We squarely deprecate the conduct of the investigating and prosecuting agency in failing to conduct prosecution with necessary promptitude in a serious case involving possession of narcotics by a foreign individual. However, indolent conduct of the prosecutor ought not prejudice an under-trial including a foreign national who is entitled to the beneficial privilege of speedy justice under Article 21 of the Constitution of India. This right has been infringed as there is little scope of trial concluding in the near future.

¹ 2017 SCC OnLine Cal 14908

4. Under such circumstances, we are inclined to grant bail to the petitioner however on strict conditions.
5. Accordingly, the petitioner be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Judge, Special Court under NDPS Act Malda on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the jurisdiction Kaliachak P.S except for the purpose of investigation and/or attending court proceeding and report to Officer-in-Charge of Kaliachak P.S once a week until further orders.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. Trial court is requested to take necessary steps to examine witnesses who are posted at Jammu & Kashmir through video linkage and conclude the trial as expeditiously as possible.
8. The application being CRM (NDPS) 1640 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)