

CRM (NDPS) 1631 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Islampur Police Station Case No. 102 of 2022 dated 01.02.2022 under Sections 21(c)/23(c)** of the Narcotic Drugs & Psychotropic Substances Act 1985.

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In the matter of : Kabul.

.... Petitioner.

Mr. Amit Roy,

... For the Petitioner.

Ms. Minati Gomes,

Mr. Aslam Parvez,

... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was lastly rejected on April 26, 2024. He says that he is in custody for 1021 days. The three leading prosecution witnesses, all being BSF personnel failed to identify him during course of depositions. Further, while rejecting the prayer for bail on April 26, 2024, a co-ordinate Bench had recorded the assurance meted out by the prosecution that the trial shall be completed within six months from the next date fixed for recording of evidence. However, still one witness remains to be examined.
2. Learned State counsel, while opposing the prayer, says that six months from the next date of evidence would mean December 15, 2024, since the next date of evidence was June 15, 2024.
3. We have considered the rival contentions of the parties. It is true that as per the order dated April 26, 2024, the prosecution has time till December 15, 2024, to conclude the trial. However,

it is highly unlikely that the trial will conclude by that date. One witness is yet to be examined. Then there will be examination under Section 313 Cr.P.C. After that there will be arguments. After that judgment has to be delivered.

4. In view of the aforesaid and considering that the three BSF personnel failed to identify the petitioner, we are of the view that the restriction in Section 37 of the NDPS Act stands sufficiently diluted and in view of the very long detention suffered by the petitioner, we are inclined to allow his prayer for bail.
5. Accordingly, we direct that the petitioner, namely, **Kabul** 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), Raiganj, Uttar Dinajpur 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.
6. 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 in any manner whatsoever.
7. 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.
8. The application for bail is, accordingly, allowed.

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

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)