

18.10.2024
Sl. No.20
akd/AP
[ALLOWED]

C. R. M. (NDPS) 1692 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 filed on 27.09.2024 in connection with Asansole GRPS Police Station Case No.48 of 2022 dated 14.12.2022 under Section 21(c) of the NDPS Act.

And

In Re: ***Sukumar Haldar***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioner

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Ms. Sima Biswas

... .. for the State

1. The petitioner has been apprehended on 14.12.2022 with 60 bottles of *phensedyl* containing *codeine phosphate mixture*. Although 60 bottles of *phensedyl* is a commercial quantity and as such the rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 are attracted but keeping in mind the present status of the criminal proceedings initiated against the petitioner, we find that the rights granted to the petitioner under Article 21 of the Constitution of India has been infringed due to delay in commencing the trial.

2. The charge sheet has been filed but charges have not yet been framed though about two years have elapsed in between. Unless the charges are framed, the witness action cannot commence. There is as such uncertainty in commencing with the witness action which will have an impact on the time limit in bringing the trial to a logical conclusion. The petitioner in such a case may have to face the trial while in custody.

Since the charge sheet has been filed, we also think that custodial interrogation of the petitioner is no more required at this stage.

3. Considering the ratio laid down in the judgment of the Hon'ble Supreme Court reported in *2024 SCC OnLine SC 1693 [Javed Gulam Nabi Shaikh vs. State of Maharashtra & Anr.]*, we are inclined to grant bail to the petitioner on strict terms which are as follows :-

- i) The petitioner, namely **Sukumar Haldar**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Bardhaman.
- ii) The petitioner shall meet the Inspector-in-charge/Officer-in-charge of Krishnaganj Police Station wherein the petitioner resides on every alternate day.
- iii) The petitioner shall not leave the jurisdiction of Krishnaganj Police Station without specific intimation to the Inspector-in-charge/Officer-in-charge.
- iv) The petitioner will, as and when required, meet the Officer-in-charge of the police station wherein the criminal case has been initiated against the petitioner and cooperate for bringing the trial to a logical conclusion.
- v) The petitioner shall also attend the trial court on the date or dates so fixed for hearing.
- vi) The petitioner shall not intimidate witnesses and/or make any attempt to tamper with evidence in any manner whatsoever.

4. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail without further reference to this court.

5. The application for bail being CRM (NDPS) 1692 of 2024 is thus allowed.

6. All parties are directed to act on the server copy of this order duly downloaded from the official *website* of this court.

(Supratim Bhattacharya, J.)

(Arindam Mukherjee, J.)