

18.10.2024
Sl. No.23
PP/BM

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M.(NDPS) 1695 of 2024

In Re: An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023(corresponding to Section 439 of the Code of Criminal Procedure) in connection with Hogolberia Police Station Case No.50 of 2024 dated 19.03.2024 under Section 21(c)/29 of the Narcotic Drugs and Psychotropic Substances (in short, NDPS) Act and subsequently charge sheet submitted vide charge sheet No.192/2024 dated 06.09.2024 under Section 21(c)/ 29 of the NDPS Act.

And

In the Matter of : Abdul Gofur Biswas

.... petitioner.

Mr. Debasish Kar

.....For the petitioner.

Mr. Bitasok Banerjee

Ms. Sima Biswas

.....For the State.

1. This is the second application for bail made by the petitioner. The first application being CRM (NDPS) 910 of 2024 was not pressed on 19th June, 2024 when it was taken up.
2. The petitioner says that he has been in custody for 9 months and no substantial progress has taken place in the criminal proceeding. Only the charge sheet has been filed.
3. Records reveal that the petitioner was apprehended on 19th March, 2024 at about 15:55 hours by the personnel

of Hogolberia Police Station. Three hundred bottles of phensedyl cough syrup has been recovered from the exclusive possession of the petitioner. Three hundred bottles constitute commercial quantity and as such provisions of Section 37 of the NDPS Act are attracted.

4. On merit, the petitioner has a very weak case to seek bail at the present stage. The petitioner, however, says that delay in trial while the petitioner is in custody amounts to infringement of the petitioner's right under Article 21 of the Constitution of India.
5. Relying upon the judgment reported in 2024 SCC Online SC 1693 (Javed Gulam Nabi Shaikh vs. State of Maharashtra & Anr.), the petitioner says that he should be enlarged on bail.
6. After hearing the parties and considering the materials on record, we do find that within six months from the date of occurrence of the incident the charge sheet has been framed and as such there is no inordinate delay in proceeding with the matter from the side of the prosecution which entitles the petitioner to seek bail for delay in judicial adjudication.
7. The facts of the instant case also does not match with the facts in **Javed Gulam Nabi Shaikh** (supra) wherein the delay was reckoned to be substantial by the Hon'ble Supreme Court.

8. In the aforesaid facts and circumstances, we are not inclined to enlarge the petitioner on bail.
9. The bail application is thus rejected.
10. The court before which the trial is to take place shall make an endeavour to conclude the trial within a period of 18 months from date without granting any unnecessary adjournment to either of the parties.

(Supratim Bhattacharya, J.) (Arindam Mukherjee, J.)