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20-12-2024
(ct. no.29)
S. De
(Allowed)

CRM (NDPS) 1797 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 **Bhagwangola Police Station Case No.253 of 2022 dated 16.04.2022 under Sections 21(c)/29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Mosnehara Bewa @ Khursina Bewa @ Khosnahara Bewa.

.... Petitioner.

Mr. Tapodip Gupta,

... For the Petitioner.

Ms. Anasuya Sinha,
Md. Yaser Ammar,

... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail. She had earlier approached this Court praying for bail by filing CRM (NDPS) 1117 of 2024. By an order dated July 16, 2024, this Bench had dismissed such application. However, we had recorded in the order the statement made on behalf of the State that the trial would be concluded within 4 months. Hence, we directed the learned Trial Court to expedite the trial and conclude the same as soon as possible and preferably, within 4 months from the next date fixed for recording of evidence.
2. Learned advocate for the petitioner says that the time period so granted would expire tomorrow. However, the trial is far from being concluded.
3. Learned State advocate files a status report. Let the same be kept with the records.

4. It appears from such report that only 2 out of 13 chargesheet named witnesses have been examined so far. The petitioner is in custody for about 2 years and 8 months. The pace at which the trial is progressing indicates that there is no possibility of an early conclusion of the trial. An under-trial cannot be kept in incarceration for an indefinite period of time without taking the trial to its logical conclusion within a reasonable period of time. The delay in the present case cannot be attributed to any appreciable extent or at all to the petitioner.
5. In view of the aforesaid, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel impelled to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Mosnehara Bewa @ Khursina Bewa @ Khosnahara Bewa** 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), Berhampore, Murshidabad subject to the condition that the petitioner shall not leave the jurisdiction of the concerned Police Station.
7. 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.
8. 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.

9. The application for bail is, accordingly, allowed.

10. 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.)