

10.01.2024

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rejected

C.R.M.(NDPS) No. 2075 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kulti Police Station Case No. 151 of 2017 dated 04.04.2017 under Sections 20(b)(ii)(c) of the NDPS Act.

And

In Re : Tantan Mishra @ Baba @ Pandit ji petitioner

Mr. Avik Ghatak
Ms. Afreen Begum
Ms. Bushra Feroz

... for the petitioner

Mr. Koushik Kundu

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than six years. He contends trial has not yet commenced. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner is a dangerous criminal. He is an accused in a number of cases in Bihar. He had fled away from jail and a separate case was registered being Burdwan Police Station Case No. 827 of 2017 dated 04.08.2017. Report submitted on behalf of the prosecution shows delay in the matter was on the ground that petitioner was facing trial in Bihar. Only in 16th October, 2023 he was produced before the trial court.

3. We have considered the materials on record. Ordinarily taking note of the protracted detention of the

petitioner we would have considered his bail prayer on the ground of delay in trial. But exceptional circumstances pertaining to his antecedents and other factors persuade us to hold otherwise. Petitioner is accused in a number of cases registered in the State of Bihar. He is facing trial in those cases. As a consequence petitioner was not produced before the jurisdictional court for a protracted period of time from January, 2018 to October, 2023. It may not also be out of place to record in 2017 petitioner attempted to escape from jail and a separate criminal case was registered against him. It is evident delay in the case is owing to the criminal antecedents of the petitioner and not attributable to the prosecution. Conduct of the petitioner particularly he attempted jail break in 2017 also prompts us to hold there is a high possibility he shall abscond in the event he is released on bail.

4. On merits we note there are ample materials to show petitioner was found transporting narcotics which is above commercial quantity i.e. 27 Kgs. of Ganja. Hence, in view of statutory restrictions under Section 37 of the NDPS Act we are not inclined to grant bail to the petitioner.

5. The application for bail is, thus, rejected.

6. We direct the trial court to positively consider the issue of framing of charge within a month from the next date fixed before the Court. Thereafter the Court shall proceed with the trial expeditiously and conclude the same at an early date preferably within one year from the date of framing of charge. In order to do so, trial court shall fix schedules at short intervals

and examine official witnesses who are unable to physically attend due to official commitments via video linkage.

7. Petitioner shall also be produced through video linkage from the Correctional Home. No unnecessary adjournment shall be given to the parties.

8. Parties shall communicate this order to the trial court for necessary compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)