

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

08.03.2024
Court No.1
(D/L 06)
(AK)

CRM (NDPS) 36 OF 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Phansidewa Police Station Case No.272 of 2021 dated 19.06.2021 under Section 21(c) of N.D.P.S. Act, 1985.

And

In the matter of: **Billal Sekh @ Billal Se**

... Petitioner.

Mr. Hillol Saha Podder

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Subhasish Misra

...for the State.

1. The matter was kept today for the prosecution to give us particulars of the progress made in the trial after 22nd August, 2023 when we had rejected the petitioner's prayer for bail.
2. The order dated 22nd August, 2023 records the submission made on behalf of the prosecution that examination of the remaining witnesses were fixed for 2nd, 4th and 5th September, 2023. This was a reason why we did not grant bail to the petitioner.
3. The status Reports placed on behalf of the prosecution today indicates a gap from 9th August, 2023, which was before our

order of 22nd August, 2023 to 17th January, 2024. There is no recording of 2nd, 4th and 5th September, 2023 which was submitted before us by the prosecution on 22nd August, 2023. Not only that, there is also no particular given as to what happened on 17th January, 2024 save and except a recording that the learned PP asked for an adjournment on 6th and 7th February, 2024 which was fixed for deposition of CSW-8.

4. The lack of progress in the trial is not explained and the status Report itself shows gaps which are contrary to what was presented to us on 22nd August, 2023.
5. The petitioner has been in custody for almost three years.
6. We are hence of the view that the inaction/laxity on the part of the prosecution is sufficient to rebut the statutory restriction in Section 37 of the NDPS Act, 1985.
7. We are hence inclined to allow the prayer for bail.
8. The petitioner shall accordingly be released on bail upon furnishing bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court (under NDPS Act, 1985), Siliguri. The petitioner shall not induce or influence witnesses or tamper with evidence in any manner whatsoever. The petitioner shall not leave the local limits of

the concerned Police Station during the entire period of trial without obtaining leave from the learned Court.

9. C.R.M.(NDPS) 36 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)