

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

07.03.2024
Court No.1
Item. 13
(Suvendu)

CRM(NDPS) 57 OF 2024

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Matigara Police Station Case No. 858/2020 dated 16.08.2020 under Sections 21(c)/23(c) of the NDPS Act corresponding to CR(NDPS) Case No. 47 of 2020 before the learned Special Court (NDPS Act) 2nd Court, Siliguri.

And

In the matter of: Md. Basiruddin

.Petitioner.

Mr. Kumar Shantanu
Mr. Amit Sinha

For the Petitioner.

Mr. Kallol Acharjee
Ms. Sukanya Adhikary

For the State.

1. None of the points raised on behalf of the petitioner including on Section 52A(2) of the NDPS Act have any merit considering the relevant dates.
2. What however weighs with us is the obvious lack of progress in the trial.
3. The petitioner has been in custody for 1298 days.
4. The negligible progress in the trial would be evident from the fact that the charge-sheet was submitted on 8th February, 2021 along with CFSL Report and charges were framed on 17th March, 2021. The examination-in-chief of the complainant was done on 8th August, 2023 and the next date was fixed on 2nd December, 2023 when the complainant was absent. The next date now has been fixed on 13th March, 2024 for cross-examination of the first witness. There are 16 witnesses who are to be examined in total.

5. The delay is sufficient to rebut the statutory restriction in Section 37 of the NDPS Act.
6. Considering the long period of incarceration and the snail-pace in which the trial is being conducted, we are inclined to grant the prayer for bail.
7. We accordingly direct that the petitioner 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 who must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act) 2nd Court, Siliguri. The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
8. CRM(NDPS) 57 of 2024 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA, J.)