

Court No. 1

30.04.2024

(JCB 13)

(S. Banerjee)

Calcutta High Court

In the Circuit Bench at Jalpaiguri

Appellate Side

(Allowed)

CRM (NDPS) 97 of 2024

In re: ^c An application for bail under Section 439 of the Code of Criminal Procedure in connection with Alipurduar Police Station Case No. 480 of 2022 dated 22.09.2022 under Sections 20(b)(ii)(c)/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Tapan Sarkar

...petitioner

Ms. Mousumi Das

... for the petitioner

Mr. Abhijit Sarkar

Mr. Biswarup Roy

... for the State

1. The report as received from the learned Trial Court as well as the photocopy of the order-sheets of NDPS Case No. 113 of 2022, are kept on record.
2. Learned counsel for the petitioner at the very outset submits before this court that considering the prolonged delay in trial and also considering the fact that charge has not yet been framed and other two accused persons have already been enlarged on bail, the instant application for bail may be considered favorably.
3. Learned counsel for the State while opposing the bail prayer submits that commercial quantity of

contraband materials have been seized from the possession of the present accused-petitioner.

4. In course of hearing learned counsel for the State submits before us the photocopies of the entire order-sheets which have been collected by the Investigating Officer from the trial court in connection with NDPS Case No. 113 of 2022 pending before the learned trial court.
5. It appears to this court that on 23.02.2024 a bail petition was filed on behalf of the present petitioner and for some reason or other, the said bail petition was not taken up on the said date and also on subsequent dates i.e., on 07.03.2024, 19.03.2024 and even on 24.04.2024. We are astonished to note that on 24.04.2024, no reason has been assigned in the order-sheet as to why on the said date the said bail application could not be disposed of by the learned Trial Court and as to what prevented the learned Trial Court to consider the charges against the present petitioner.
6. Be that as it may, we thus find that there has been a considerable delay in considering the charges, especially with regard to NDPS Case No. 113 of 2022 whereby the right of speedy trial of the present accused-petitioner is seriously affected as held in the case of Rabi Prakash -Vs.- The State of Odisha, reported in 2023 SCC Online SC 1109. In the said

case it has been held that prayer for bail on the ground of delay in trial is not fettered by the restrictions imposed under Section 37 of the NDPS Act.

7. Hence, we are inclined to grant bail to the petitioner.
8. Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two registered sureties of Rs. 5,000/- each, to the satisfaction of the Learned Judge, Special Court (under NDPS) Jalpaiguri subject to the condition that he shall regularly appear before the trial court on each and every date of hearing until further orders subject to the provision of Section 317 Cr.P.C. and shall not commit any threat witnesses and/or tamper with evidence in any manner whatsoever.
9. In the event the petitioner fails to appear before the trial court without any justifiable cause or violates any condition given above, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this court.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)