

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

02.04.2024
Court No.01
rpan / 60

CRM (NDPS) 119 of 2024

In Re: Jahangir Sk

- Petitioner

Mr. Subham Ghosh,
Mr. Mayank Roy
... for the Petitioner.
Mr. Tapan Bhattacharjee,
Mr. Kallol Nag
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Matigara Police Station Case No.280 of 2021 dated 23.04.2021 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody for more than 1075 days. Upon completion of investigation chargesheet has also been submitted. But till date not a single witness has been examined out of the total number of witnesses, being 12 in number. There is, thus, no possibility towards early conclusion of trial in the near future. He further submits that the co-accused person, who is similarly situated with the petitioner was granted bail primarily on the ground of long detention by a co-ordinate Bench of this Court on 18th September, 2023. As such, on the ground of parity the petitioner may also be enlarged on bail on any condition.

The learned advocate appearing for the State submits that contraband substance above commercial quantity was

recovered from the joint possession of the petitioner and the other co-accused person, namely, Rejjak Ali and as such, the rigours of Section 37 of the NDPS Act are clearly attracted. He further submits that the charges have been framed and 11th April, 2024 is the date fixed for deposition of witnesses and in view thereof, the trial would be concluded within a reasonable period of time. In the said conspectus, the petitioner's prayer needs to be rejected.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Upon assessment of the role of the petitioner in the alleged offence, *prima facie*, it appears to this Court that he is similarly situated with the co-accused Rejjak Ali, who had already been enlarged on bail by a co-ordinate Bench of this Court on 18th September, 2023.

Prima facie, it also appears that the delay which has occurred is not attributable to the petitioner and such delay in conclusion of the trial affects the petitioner's fundamental right guaranteed under Article 21 of the Constitution of India. Once the trial starts it should reach to its logical conclusion and even delay on the part of the court would certainly violate Article 21 of the Constitution. Whatever may be the nature of the offence, a prolonged trial against an accused would be violative of Article 21 [see the judgment delivered in the case of *Satender Kumar Antil Vs. Central Bureau of Investigation*, reported in AIR 2022 SC 3380]. Applying such proposition of law to the facts of the case, we

are of the opinion that further detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, NDPS Act, Siliguri with a further condition that he shall not leave the territorial jurisdiction of the learned trial court during the entire period of trial and shall also attend the learned trial court on all the dates as fixed for hearing.

It is further directed that the petitioner shall not tamper with the evidence and/or influence any of the witnesses in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

The application for bail being CRM (NDPS) 119 of 2024 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.)

(Tapabrata Chakraborty, J.)