

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

15.03.2024
Court No.1
Item. 11
(Suvendu)

CRM(NDPS) 125 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. 1355, dated 27.11.2021 under Section 20(b)(ii)(c) of the NDPS Act, 1985 vide CR NDPS Case No. 181 of 2021. And

In the matter of: Shohor Ali & Anr.

.Petitioners.

Ms. Chanda Jha

For the Petitioners.

Mr. Abhijit Sarkar
Mr. Sourav Ganguly

For the State.

1. There are two petitioners before us.
2. We find from the records that an order had been passed in respect of the petitioner no. 1 Shohor Ali on 17th August, 2023 in CRM(NDPS) 554 of 2023 where the Court noted the slow progress in the trial after filing charges on 19th November, 2022 and directed the learned Special Court, Siliguri to make an effort to conclude the trial within six months from the date of the order.
3. Admittedly, as also submitted by learned counsel appearing for the prosecution, that one witness has been examined after 17th August, 2023 whereas the six months expired on 16th February, 2024. There are 14 witnesses in all.
4. Since, the direction of six months was given only in respect of the petitioner no. 1 and the petitioner no.2 / Mohibul Hussain took adjournments and also did not press his application at least on two occasions before the Coordinate Bench, any proposed relief would only be restricted to the petitioner no. 1/ Shohor Ali @ Shohar Ali.

5. The slow progress in the trial despite a direction given for expedition is a ground for relief. As has been decided by the Supreme Court in several cases including in *Rabi Prakash Vs. State of Odisha, 2023 SCC Online SC 1109*.
6. The petitioner no.1 has been in custody for 836 days.
7. We are hence of the view that the petitioner no. 1 has been able to rebut the statutory restrictions of Section 37 of the NDPS Act.
8. We accordingly grant the prayer for bail in respect of the petitioner no. 1 / Shohor Ali @ Shohar Ali and the prayer for bail is rejected in respect of the petitioner no. 2 / Mohibul Hussain.
9. We accordingly direct that the petitioner no. 1/ Shohor Ali @ Shohar Ali 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) Siliguri. The petitioner no. 1 shall not induce witnesses or influence them or tamper with the evidence. The petitioner no. 1 shall also make himself available for the trial as and when the petitioner no. 1 is required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.
10. CRM(NDPS) 125 of 2024 is accordingly allowed in respect of the petitioner no. 1/ Shohor Ali @ Shohar Ali and rejected in respect of the petitioner no. 2/ Mohibul Hussain.
11. CRM (NDPS) 125 of 2024 is disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA,J.)

