

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

17.05.2024.
3/tkm

C.R.M. (NDPS) 164 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pradhan Nagar PS case no.551 of 2022 dated 20.7.2022 under sections 2a(c)/22(c) of the NDPS Act.

and

In the matter of : Shiv Shankar @ Shib Kumar @ Shib
Shankar Roy & Anr. ... Petitioners

Mr. Arijit Ghosh
Mr. S S Ghosh
Ms. Angana Rakshit

...for the Petitioner

Mr. A S Chakraborty, Id APP
Mr. Sourav Ganguly

...for the State.

1. Petitioners are in custody for 668 days. They submit there is slow progress in trial. they pray for bail.
2. Learned lawyer for the State contends large volume of cough syrup containing codeine phosphate was recovered from the petitioners and co-accused. One of the co-accused has been granted interim bail on health ground. Petitioners cannot claim parity with him. Other co-accused namely Munna Singh and Sanaj Sahani are absconding. This has resulted in delay.
3. We have considered the materials on record. Petitioners and others were illegally transporting 5000 bottles of cough syrup containing codeine phosphate above commercial quantity. They failed to explain licit possession of the medicinal products. This gives rise to impression that the petitioners and others were dealing in medicinal products containing narcotics for non-medicinal purposes. Co-accused Dharmendra Singh has been enlarged on interim bail on health ground. For reasons best known to the accused their lawyer retired in the midst of the proceeding and a new lawyer had to be appointed through District

Legal Services Authority. These are well-known defence tactics to dilate proceedings. That apart, co-accused Munna Singh and Sanaj Sahani are absconding. Delay in the matter is not attributable to the prosecution.

4. Under such circumstances we are not inclined to grant bail to the petitioners either on merit or on the ground of delay.
5. Accordingly, prayer for bail is rejected.
6. Trial court is directed to take immediate steps to declare the absconding accused as proclaimed offenders and proceed with trial with utmost expedition against the petitioners and others who are before the court. Prosecution assures this court to conclude the trial within 18 months from the date of framing of charge subject to cooperation by defence and other systemic delays.
7. Parties shall cooperate with the trial court and trial shall be concluded as expeditiously as possible in light of the assurance given by the prosecution.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)