

25.04.2024
Court No.01
Item No. 86

Allowed

sg

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

CRM (NDPS) 182 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matigara Police Station Case No.1086 of 2020 dated 22.10.2020 under section 7(c)/23(c) of the NDPS Act.

And

In Re: **Md. Mobarak @ Mobarak Sk**

Petitioner

Mr. Arunava Paul

For the Petitioner

Mr. Nilay Chakraborty, ld. APP
Mr. Aniruddha Biswas,

For the State

1. The petitioner is in custody over 1281 days. It appears that a coordinate Bench on 11th March, 2024 granted bail to one Masidur Moumin in CRM(NDPS) 43 of 2024 primarily on the ground of inordinate delay in the conduct of the trial. In view of the fact that an inordinate delay in conduct of the trial affects the right of accused for speedy trial under Article 21 of the Constitution of India and as held in ***Rabi Prakash vs. State of Odisha*** reported in ***2023 SCC OnLine 1109***, we are of the view that on the same parity of reasoning the present petitioner is required to be granted bail as from the record it appears that there has been no progress in the trial for a considerable length of time. Accordingly, we allow the prayer for bail of the petitioner.

2. We direct that the petitioner, namely, **Md. Mobarak @ Mobarak Sk**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount each to the satisfaction of the learned Special Judge, Special Court at Siliguri under NDPS Act, with a condition that the petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provision of Section 317 of the Criminal Procedure Code and the petitioner shall not tamper with evidence and/or intimidate the witness in any manner whatsoever. In the event of non-compliance of any of the conditions, the bail shall stand automatically cancelled without any further reference to this Court.
3. We make it clear that the trial court shall ensure appearance of all the witnesses and production of the alamsats on each date of substantive hearing, failing which, the learned Trial Court will be at liberty to take appropriate coercive action against the prosecution witnesses as well as the police personnel.
4. CRM(NDPS)/182/2024 is, thus, disposed of.

(Soumen Sen, J)

(Partha Sarathi Sen, J)