

01.05.2024
SL No.71
Court No.1
(gc)
(rejected)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (NDPS) 183 of 2024

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Matigara Police Station Case No.57 of 2021 dated 24/01/2021, under Sections 21(c) of the NDPS Act,1985 read with Section 25(i)(a)(1AA)/35 of the Arms Act.

And

In the matter of : **Md. Sab Ali @ Shah Wali @ Md. Saab Ali & Anr.**
- Petitioners.

Mr. Arunava Paul

....For the Petitioner.

Mr. Ujjwal Luksom,

Mr. Biswarup Roy

....For the State.

1. This is an application for renewal of the prayer for bail.
2. Learned Counsel for the petitioners submits that the petitioners are in incarceration for 963 days and no substantial progress has been made in the trial in spite of repeated orders passed by the Coordinate Benches.
3. Learned Counsel for the petitioners has drawn our attention to few orders passed by the Coordinate Benches between December, 2022 and October, 2023 in which observations have been made for expeditious disposal of the case.
4. Learned Counsel for the State on instruction submits that out of 14 witnesses, 12 witnesses have been examined and

the matter is at the fag end of the trial and at this stage release of the petitioners may prejudice the trial.

5. Considering the fact that only 2 witnesses have remained to be examined since the last order dated 23.04.2024, we are not inclined to release the petitioners on bail. Moreover, it appears from the Case Diary that commercial quantity of narcotic substance was seized from the joint possession of the petitioners. Fire arms were also seized.
6. In view thereof, we dispose of this application by requesting the learned Judge, Special Court (NDPS Act) at Siliguri to conclude evidence of the remaining witnesses within a period of six weeks from the date of communication of this order and to conclude the hearing of the case preferably within a period of eight weeks thereafter by invoking Section 309 of the Cr.P.C. It is further directed that the learned Trial Court shall ensure the production of all the alamats and appearance of the prosecution witnesses on each date of substantive hearing, failing which, the learned Trial Court shall be at liberty to enforce its order in accordance with law.
7. 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.)