

02.05.2024
Court No.01
Item No. 70
Allowed

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

ar

CRM (NDPS) 192 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Birpara Police Station Case No. 163 of 2022 dated 12.10.2022 corresponding to NDPS no. 118 of 2022 under Sections 21(c)/25/ 29 of the NDPS Act.

And

In Re: **Surajit Barman**

Petitioner

Mr. Supritam Nag
Mr. Trishna Roy
Mr. Samrat Sarkar

For the Petitioner

Mr. Nilay Chakraborty, Ld. APP
Mr. Biswarup Roy

For the State

1. Heard the learned counsel for the parties.
2. Learned counsel for the petitioner has prayed for bail on the ground of long incarceration and prolongness in the trial. It is also submitted that charge-sheet was filed on 31st January, 2022 and the petitioner is in custody since 12th October, 2022. Since then charge has not been considered.
3. Learned counsel for the State while opposing the prayer for bail has submitted that huge quantity of narcotic contraband was recovered from the joint possession and there are incriminating materials available in the case diary and the petitioner was involved consciously in the said crime.

4. It appears that on 10th October, 2023 a coordinate bench has requested the learned Trial Court to conclude the trial preferably within six months and in case of failure to conclude the trial the petitioner is given liberty to make a fresh appropriate application. On the basis of the aforesaid, the instant application has been filed.
5. Learned counsel for the State has failed to offer any explanation for not proceeding with the matter deliberately till the charge-sheet has been filed on 31st January, 2022 or when the petitioner was arrested and taken into custody on 12th October, 2022. On the contrary, the charge has not yet been considered till date and also the case diary would not show the delay in progress of the trial is attributable to the petitioner.
6. In view of the above, we are of the considered view that present accused petitioner is successful to make out a case for enlargement of bail relaxing the statutory restrictions as provided under Section 37 of the NDPS Act basically on the ground of prolongness and/or delay in trial and it directly affects the valuable right of the petitioner under Article 21 of the Constitution of India, as held in the case of ***Rabi Prakash Vs. The State of Odisha***, reported in ***2023 SCC Online SC 1109***.
7. In the facts and circumstances of the present case, the present accused petitioner 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/ Ld. Additional Sessions Judge, 1st Court, Jhalpaiguri under N.D.P.S. Act, with a condition that the petitioner shall appear before the trial court on every date of substantive hearing subject to the provision of Section 317 Cr.P.C and

the petitioner shall not intimidate the witnesses or tamper with evidence 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.

8. We request the learned Special Judge to expedite and conclude the trial preferably within a period of one year, if the charge is framed against the present accused petitioner.
9. This application for bail is, thus, disposed of.
10. 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.)

(Partha Sarathi Sen, J)

(Soumen Sen, J)