

JPD-09
Ct No.01
22.07.2024
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 251 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhaktinagar Police Station Case No. 1375 of 2022 dated 26.12.2022 under Sections 21 (c)/25/29 of the NDPS Act.

And

In the matter of: **Ranjit Roy**

.... petitioner

Mr. Supritam Nag
Ms. Trishna Roy

... for the petitioner

Mr. Tapan Bhattacharjee
Mr. Subhasish Misra

... for the State

1. Learned counsel for the petitioner points out that the petitioner is already in custody for 573 days.
2. Whereas the charge sheet was filed on June 25, 2023, even after lapse of 373 days thereafter, charges have not been framed as yet, nor have copies of relevant document, including the charge sheet, been given to the petitioner.
3. Learned counsel relies on the Judgment of *Rabi Prakash vs. The State of Odisha* where the Supreme Court, while relying on the fundamental right guaranteed under Article 21 of the

Constitution, observed that prolonged incarceration generally militates against such most precious fundamental right and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

4. Learned counsel for the prosecution opposes the prayer for bail and submits that the next date fixed is on July 30, 2024 for production.
5. In line with the ratio laid down in *Rabi Prakash (supra)*, we are of the opinion that the long period of incarceration of the petitioner, who is languishing in custody over 373 days even after the filing of the charge sheet without charges being framed and copies of documents being served on him, is sufficient justification for overriding the rigours of Section 37 of the NDPS Act.
6. Accordingly, CRM (NDPS) 251 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Session Judge, First Court (NDPS Act) at Jalpaiguri.
7. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
8. Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person

from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)