

JPD-18
Ct No.01
22.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 264 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Darjeeling Sadar** Police Station Case No. **179** of **2018** dated **04.12.2018** under Sections **20(b)(ii)(C) of the NDPS Act, 1985.**

And

In the matter of: **Yogesh Tamang @ Yogash**

.... petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shubhum Kumar,
Ms. Rikta Sarkar

... for the petitioner

Mr. Nilay Chakraborty, Ld. APP,
Mr. Abhijit Sarkar,
Mr. Aniruddha Biswas

... for the State

1. The petitioner is already in custody for 5 years 6 months and 26 days.
2. As held by the Supreme Court in several judgments, the overriding special right granted under Article 21 of the Constitution of India prevails over Section 37 of the NDPS Act, particularly in cases where the accused is in custody for a prolonged period, languishing as an undertrial.
3. Keeping in view such principles, although objected to by the State, we are inclined to grant bail to the petitioner. Moreover, no

objective purpose would be subserved in keeping the petitioner in custody further during trial.

4. Accordingly, CRM (NDPS) 264 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.1,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court NDPS at Darjeeling.
5. 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.
6. 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.)