

JPD-13
Ct No.01
23.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 273 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Pradhannagar** Police Station Case No. **597** of **2022** dated **05.08.2022** under Sections **21(c)/22(c)** of the **NDPS Act, 1985**.

And

In the matter of: **Urmila Chowdhury**

.... Petitioner

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Abhijit Sarkar,
Mr. Sourav Ganguly

... for the State

1. In the present case, we find that a similar prayer of the petitioner for bail was refused on February 22, 2024. However, we find that the period of custody which is now pleaded by the petitioner was not specifically considered in the said judgment. In any event, the prior refusal of bail *per se* does not operate as *res judicata* in a criminal matter.
2. The petitioner is already in custody for 715 days. No prosecution witness has yet been examined, although it is contended by the

prosecution that the next date of trial has been fixed on September 25, 2024.

- 3.** We find from the records and the submissions of the parties that the charge sheet was filed on January 31, 2023 and supplementary charge sheet was filed on March 06, 2023.
- 4.** It is well-settled that considerable delay in prosecution is itself a ground for grant of bail, particularly keeping in view the fact that the petitioner was not at fault for such delay and has already been in custody for a prolonged period of 715 days as an undertrial.
- 5.** Accordingly, in deference to the fundamental rights of the petitioner as enshrined in Article 21 of the Constitution of India, we are of the opinion that the prolonged period of custody justifies grant of bail to the petitioner, despite the objection to the bail raised by the State.
- 6.** Accordingly, CRM (NDPS) 273 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 Special Court (NDPS) at Siliguri.
- 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.)