

AD-47
Ct No.01
Jalpaiguri
24.07.2024
SP

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 321 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Bhaktinagar Police Station Case No. 384 of 2023 dated 15.05.2023 under Sections 21(c)/22(b)/25/29 of the NDPS Act, 1985.

And

In the matter of: MD. NUR ALAM @ MD. NOOR ALAM
...for the petitioner

Mr. Supritam Nag Adv.
Ms. Trishna Roy, Adv.
... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Sanjiv Das, Adv.
Mr. Subhasish Misra, Adv.
... for the State

1. Learned counsel for the petitioner points out to the Court that the petitioner is already in custody for a prolonged period of 496 days since May 16, 2023. Although charge-sheet was filed on November 6, 2023 and as many as 27 dates have elapsed before the trial court in the meantime, no charges have yet been framed. September 13, 2024 has been fixed only for production and supply of copies of documents. On such grounds, it is submitted that the petitioner ought to be granted bail.

2. Learned counsel for the State opposes the prayer for bail and submits that after the charge-sheet, the supplementary charge-sheet has also been filed on January 18, 2024.
3. Be that as it may, we find that despite the passage of as many as 27 dates in trial, no charges have yet been framed. Also keeping in mind that there are as many as 21 witnesses, we do not find any further necessity of detaining the petitioner behind the bars, since he has already been spent 496 days in incarceration. Learned counsel for the petitioner also, rightly, relies on the principle laid down by the Supreme Court in *Rabi Prakash versus The State of Odisha* that the long period of incarceration itself militates against the fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the Constitutional liberty must override the statutory embargo created under Section 37 of the NDPS Act.
4. Accordingly, CRM (NDPS) 321 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Ld. Additional Session Judge, 1st Court Jalpaiguri.
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.)