

JPD-22
Ct No.01
29.07.2024
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 354 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Matigara** Police Station Case No. **196** of **2021** dated **20.03.2021** under Section **21(c)** of the **NDPS Act, 1985**.

And

In the matter of: **Sarjahan Sk @ Sarjhan Sk**

.... petitioner

Mr. Arunava Paul

... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Kallol Nag,
Mr. Chattu Roy

... for the State

1. Learned counsel for the petitioner argues that the petitioner is in custody for 1215 days.
2. By an order dated July 05, 2023, a previous bail petition of the petitioner was rejected with a request to the trial court to expedite the trial and to conclude the same within a year from the date of communication, which was not done.

3. Subsequently the petitioner approached a different coordinate Bench which, on March 11, 2024, refused the prayer for bail with a specific recording that the court refrained from granting such prayer only on the ground that the bail application of a co-accused was disposed of by the same Bench on March 06, 2024 by giving liberty to the petitioner to approach the court in July, 2024 if the trial continues to lag.
4. The coordinate Bench, in the order dated March 11, 2024, also observed that the status report showed that charges were framed on 29th September, 2021 and CSW 1/complainant was examined on 21st February, 2022. The cross-examination of P.W.1 was deferred on 5th September, 2022, presumably on the request of the petitioner. The next date was then fixed on March 13, 2024 for cross-examination of P.W.1. The court then went on to record that the prosecution does not have any answer, let alone a satisfactory one, to explain the large gaps between framing of charges, examination of CSW 1, fixation of cross of P.W.1 on 5th September, 2022 and thereafter the next date being on March 13, 2022, each of the dates having a minimum gap of 5-7 months. The court also observed that the petitioner might already have a good case under Article 21 of the Constitution of India.
5. Learned counsel for the prosecution opposes the prayer for bail and submits that after the order dated March 11, 2024, the prosecution has done its level best and only three witnesses are

left to be examined. It is, thus, argued that given some time, the trial would itself be concluded.

6. We find from the observations made in the order dated March 11, 2024 that even at that juncture, the Division Bench was inclined to grant bail but stopped just short of doing so since a liberty was given previously to another co-accused to approach the court in the month of July, 2024.
7. Today we are on July 29, 2024 which is the fag end of the month and as yet, three prosecution witnesses are yet to be examined. Hence, agreeing with the other views expressed by the coordinate Bench in its order dated March 11, 2024, particularly in view of the fact that the petitioner is already in custody for 1215 days and there is no further justification to prolong the agony of custodial trial, we are inclined to grant bail to the petitioner.
8. Accordingly, CRM (NDPS) 354 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 Special Court (NDPS Act) at Siliguri.
9. 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.
10. 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.)