

JPD-79  
Ct No.01  
1.8.2024  
S. Bag

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

**CRM (NDPS) 391 of 2024**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Alipurduar, Jaigaon Police Station Case no. 92 of 2022 dated 1.5.2022 under Section 22(c) of the N.D.P.S. Act, 1985.

And

In the matter of: Sunil Tamang

....petitioner

Mr. Dilip Chakraborty, Adv.

... for the petitioner

Mr. Kallol Acharjee, Adv.

Mr. Kallol Nag, Adv.

... for the State

1. Learned counsel for the petitioner contends that the petitioner is in custody for 820 days. Other violations are also alleged, which may be dealt with in trial.
2. Learned counsel for the State categorically opposes the prayer for bail and points out that as recently as on April 25, 2024, a Co-ordinate Bench refused the petitioner's prayer for bail

but passed certain directions to ensure early disposal of the trial.

3. However, we do not find anything substantial having taken place in the trial even after April 25, 2024. Moreover, the principle laid down by the Supreme Court in *Rabi Prakash vs. The State of Odisha* applies squarely in view of the petitioner having already been in custody for 820 days, the delay not being due to any fault of the petitioner. Since the personal liberty of the petitioner as enshrined in Article 21 of the Constitution is being violated, we are inclined to grant bail to the petitioner, if not for any other reason, on the ground of prolonged incarceration of the petitioner as an undertrial.
4. In such view of the matter, CRM (NDPS) 391 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 Special Court (NDPS Act), 1<sup>st</sup> Court at 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.)**