

11.11.2024
Item no. 15.
Court No.1.
AB
(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (NDPS) 483 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bhaktinagar Police Station Case No.359 of 2023 Dated 3.5.2023 under Sections 21(c)/22C/25/29 of the NDPS Act, 1985

And

In the matter of : Suresh Sah

.....Petitioner.

Mr. H. Saha Poddar
Ms. Mousumi Das for the Petitioner.

Mr. Ujjwal Luksom,
Ms. Namrata Das for the State.

Dictated by Arijit Banerjee, J.

1. Commercial quantity of contraband items was allegedly seized from two accused persons including this petitioner. His prayer for bail was rejected on September 26, 2024. He renews his prayer for bail on the ground that although he is in custody for about 555 days (more than one and half years), charge has not yet been framed although charge sheet was filed on October 28, 2023. He says that on the touch stone of Article 21 of the Constitution, he should be enlarged on bail.
2. Opposing the prayer for bail, learned State Advocate says that supplementary charge sheet was filed on

February 21, 2024 along with the FSL Report. The samples have tested positive for the presence of contraband items. All efforts will be made to expedite the trial.

3. The petitioner is in judicial custody for more than one and half years. Even charge has not yet been framed. There are 16 witnesses named in the charge sheet. It is anybody's guess as to when the trial will conclude. An under-trial cannot be kept in incarceration for an indefinite period of time.
4. Without commenting on the merits of the case and solely on the ground of lengthy detention of the petitioner, coupled with the fact that there is no possibility of an early conclusion of the trial, we are constrained to allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **Suresh Sah** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Jalpaiguri, and on further condition that the petitioner shall remain within the jurisdiction of local police station and he shall report to the Officer in charge of the local police station once in a fortnight until further orders.

6. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
7. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
8. The application for bail is, accordingly, allowed.
9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)