

25.11.2024
SL No.30
srm/Mujahid
(Allowed)

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

C.R.M. (NDPS) 511 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973/Section 483 of the B.N.S.S. 2023 in connection with **Phasidewa** P.S. Case No. **456/2022** dated **13.10.2022** under Sections 21(c)/23(c) of the NDPS Act read with Section 46(A)(C) of Bengal Excise Act.

And

In the matter of: **Abubokker Mondal**

....Petitioner

Ms. Radhika Agarwal

...for the Petitioner

Mr. Aditi Shankar Chakraborty,
Ms. Sukanya Adhikary

...for the State

The petitioner is in custody for 753 days. Charges have not yet been framed. Prolonged incarceration in the correctional home is violative of Article 21 of the Constitution of India. Prima facie, we find that the arrest was not as per the decision of the Hon'ble Apex Court in **D.K. Basu vs. State of West Bengal** reported in **AIR 1997 SC 10**. The name of an independent witness does not find mention in the memo of arrest.

Two of the accused persons are absconding for the past two years and it is unlikely that the trial would be concluded expeditiously. The petitioner has a right to speedy trial.

Considering the materials, the contention of the petitioner that there was no independent witness at the time of arrest and

the fact that the quantum of articles seized was not mentioned in the seizure list, this Court, prima facie, finds that there is adequate reason to grant bail to the petitioner at this stage.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a Bond of Rs.25,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Siliguri and on further conditions that the petitioner shall not leave the jurisdiction of the concerned police station and shall appear before the learned trial court on every day of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as stated hereinbefore, it is open to the learned trial court to cancel the bail of the petitioner without any further reference to this Court.

The application for bail is, thus, allowed.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)