

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

25.11.2024
Item No.56
Court No.1
(GB)
(Allowed)

CRM (NDPS) 537 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 **Kalimpong** Police Station Case No.**311/2022** dated **22.12.2022** under Section 22(C)/25 of NDPS Act, 1985.

And

In the matter of: **Kumar Darjee**

....Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shutham Kumar,
Ms. Sayantani Das

...for the Petitioner.

Mr. Abhijit Sarkar,
Mr. Sanjiv Das.

... for the State.

1. The allegation against the petitioner is that huge amount of contraband articles were recovered from the possession of the petitioner.
2. Mr. Bhowmik, learned advocate representing the petitioner submits that the petitioner is a mere employee of the consigner and the consigner who is the kingpin of the offence has already been enlarged on bail. He submits that the present petitioner is in custody for 704 days and out of 26 witnesses only 3 witnesses have been examined. He submits that further detention of the present petitioner will not serve any purpose.
3. The learned advocate for the State produces the case diary. Based on the materials available on the case diary, he opposes the prayer for bail and submits that the contraband article was recovered from the possession of the petitioner. He submits that there are no materials to override the statutory embargo engraved in Section 37 of the NDPS Act. He further submits that already 7 witnesses have been examined.

4. Heard the learned advocates for the respective parties. Perused the case diary and other materials including the seizure list. From the records, it appears that the accused person against whom the main allegation is directed, is on bail. There is no likelihood of conclusion of the trial in the near future. Considering the period of incarceration of the present petitioner, we are of the view that such prolonged incarceration militates against the statutory embargo of Section 37 of the NDPS Act. The petitioner is entitled to a speedy trial as guaranteed under Article 21 of the Constitution of India.
5. Considering these aspects, we are of the view that further detention of the present petitioner will not serve any purpose. Accordingly, we are inclined to grant bail to the petitioner. The petitioner be enlarged on bail upon furnishing 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, under NDPS Act, Kalimpong. The petitioner shall appear before the learned trial court on each and every date of hearing and shall not intimidate the witnesses or tamper with any evidence. The petitioner shall not leave the jurisdiction of the local police station. In case of failure to comply with the above directions, the learned trial Judge shall be entitled to cancel the bail without further reference to this Court.
6. The application for bail, being CRM (NDPS) 537 of 2024 is, thus, disposed of.
7. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)