

26.11.2024
SL No.44
srm/Mujahid
(Allowed)

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

C.R.M. (NDPS) 540 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 filed on **18.11.2024** in connection with **Birpara** P.S. Case No. **154/2023** dated **21.10.2023** under Sections 21(c)/25/29 of the NDPS Act.

And

In the matter of: **Ritesh Chhetri**

....Petitioner

Mr. Subrata Karmakar,
Mr. Madhumita Sarkar,
Mr. Rinka Chakraborty

...for the Petitioner

Mr. Sourav Ganguly,
Mr. Sanjiv Das

...for the State

The petitioner prays for grant of bail on the ground that six out of the seven charge-sheeted accused persons have been granted bail. It is further contended that the trial has not progressed and 17 witnesses have been cited in the charge-sheet.

Learned Additional Public Prosecutor vehemently opposes such prayer and submits that the first prosecution witness was examined in part, but the examination was deferred at the request of the petitioner. Thus the petitioner cannot get the advantage of a delayed trial.

We have perused the materials. We have perused the order dated July 30, 2024 passed by a coordinate Bench. We

have noted that the coordinate Bench recorded that the trial could not commence as the de facto complainant was absent on five consecutive dates.

We have not found any materials which would make the case of the petitioner distinguishable on facts to the case of those co-accused persons who have been enlarged on bail.

Under such circumstances and in view of the fact that the petitioner has been incarcerated for more than a year and there is hardly any likelihood of conclusion of trial in the near future.

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 Special Court (NDPS Act), Alipurduar and on further conditions that the petitioner shall not leave the territorial jurisdiction of the trial court during entire period of trial and shall attend court on each and every date. The petitioner 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.)