

03.12.2024
SL No.24
s.biswas
(Allowed)

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

C.R.M. (NDPS) 553 of 2024

In Re: - An application for bail under Section 483 of the BNSS corresponding to Section 439 of the Cr.P.C. in connection with **Matigara** P.S. Case No. **946/2021** dated **27.08.2021** under Sections **21(c)** of the NDPS Act.

And

In the matter of: **Mukesh Barman**

....Petitioner

Mr. Hillol Saha Podder

Ms. Mousumi Das

...for the Petitioner

Mr. Abhijit Sarkar

Mr. Sanjiv Das

...for the State

1. Petitioner prays for bail on the ground of prolonged detention and submits that there is a remote possibility of early conclusion of trial. The petitioner refers to an order passed by the learned Judge, Special Court under NDPS Act, Siliguri dated May 7, 2024, in support of his contention that the petitioner was granted default bail, but he could not avail of the same as he was unable to furnish the bail bond.
2. Learned advocate for the State opposes the prayer for bail and submits that the trial has commenced.
3. We have considered the order dated May 7, 2024, passed by the Judge, Special Court (NDPS) Act, Siliguri. The petitioner was granted bail by the learned Judge, Special Court under NDPS Act, Siliguri on November 3, 2024, on the ground that

the prosecution did not file the chemical examination report with the charge-sheet. On November 11, 2024, the prosecution filed supplementary charge-sheet with the chemical examination report. The petitioner could not furnish the bail bond. The learned court recorded that the petitioner had waived his right to bail. Accordingly, the petitioner prays for bail.

4. We have found from the charge-sheet that 13 witnesses have been cited and three scheduled dates have passed when the prosecution was unable to produce witnesses. Under such circumstances, in view of the uncertainty in the conclusion of trial and on the touchstone of Article 21 of the Constitution of India, we are inclined to grant bail to the petitioner.
5. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of equal amount each, one of whom must be local, to the satisfaction of the Learned Special Court under NDPS Act, Siliguri, subject to the condition that the petitioner shall appear before the learned trial court on each and every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future. The petitioner shall not leave the jurisdiction of the trial court until further orders.

6. In the event the petitioner fails to comply with the conditions as stated hereinbefore, it is open to the trial court to cancel the bail of the petitioner without any further reference to this Court.
7. The application for bail is, thus, allowed.
8. All parties shall act on the basis of the server copy of the order.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)