

CRM (NDPS) 80 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Kandi Police Station Case No. 258 of 2022** dated **11.05.2022** under Sections **21(c)/29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

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In the matter of : Mithun Mondal @ Bishu. Petitioner.
Mr. Arnab Chatterjee,
Mr. Anisur Rahaman, ... For the Petitioner.

Mr. Bitasok Banerjee,
Ms. Suchismita Dutta, ... For the State.

Order dictated by Arijit Banerjee, J.

1. The State has filed a further report today. Let the same be kept with the records.
2. We find that there are 6 criminal cases pending against the petitioner apart from the present case. In another case, he was discharged.
3. In all the pending cases the petitioner is on bail.
4. The petitioner is in custody for over 2 years and 9 months. He says that even charge has not been framed. There are 13 chargesheet named witnesses. There is no possibility of an early conclusion of the trial, since the trial has not even begun. On the touchstone of Article 21 of the Constitution of India, he prays for bail.
5. Strongly opposing the prayer, learned State advocate tells us that charge could not be framed because another accused person is absconding. Warrant of Arrest is pending against him. The petitioner has very bad criminal antecedents. Each time he committed an offence, was taken into custody and then was granted

bail and again he has committed an offence. If he is enlarged on bail, he will again commit an offence under the NDPS Act. He is a habitual offender.

6. The petitioner may be the worst criminal. Nobody stops the prosecution from carrying the trial to its logical conclusion on an early date, securing the petitioner's conviction and punishing him in accordance with law. However, the fundamental right of a citizen enshrined in Article 21 of the Constitution of India which includes the right to personal liberty and right to speedy conclusion of trial, cannot be overlooked. These rights are ordinarily paramount and must override all other considerations.

7. We find that the petitioner is in custody for a long period of time. Even charge has not been framed. Learned Trial Court ought to have split up the trial in accordance with law and proceeded against the petitioner. The same has not been done.

8. Solely on the touchstone of Article 21 of the Constitution of India and without touching the merits of the case, we are constrained to grant bail to the petitioner.

9. Accordingly, we direct that the petitioner, namely, **Mithun Mondal @ Bishu** 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), Murshidabad, Baharampore subject to the condition that the petitioner shall remain within the jurisdiction of the Sainthia Police Station and shall meet the Inspector-in-Charge, Sainthia Police Station, twice a week until further orders and on further condition that the petitioner shall not leave the territorial

jurisdiction of the districts of Murshidabad and Birbhum except for the purpose of attending court proceedings.

10. 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 in any manner whatsoever.

11. 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.

12. The application for bail is, accordingly, allowed.

13. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)