

50. 18.02.2025
Court
No.29 (Tanmoy)

Rejected

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
CRM (NDPS) 91 of 2025**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of: - **MD. ALFAS KHAN**

...petitioner.

Mr. Sk. Toslim Ali

...for the petitioner.

Mr. Joydeep Roy, Jr. Govt. Adv.

Mr. Dattatreya Dutta

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for more than three years. There is no possibility of an early conclusion of the trial. There was no recovery of contraband items from him. He prays for bail.
2. Learned State Advocate draws our attention to an order dated July 3, 2024, passed on an application of a co-accused person by the name of Ameer Hasan @ Ameer Hassan @ Md. Ameer Hasan, registered as CRM (NDPS) 977 of 2024, whereby, while rejecting the bail prayer, we had directed the learned Trial Court to expedite the trial to the fullest and conclude the same as early as possible but positively within one year from the next date fixed for recording of evidence.
3. Learned Advocate says that sufficient time is still left for the prosecution to conclude the trial within the time-period indicated in the aforesaid order. Although there are 35 charge-sheet named witnesses the prosecution intends to examine only 13 witnesses. Seven witnesses have already been examined.

PW8 is in the process of being examined. The trial is likely to conclude within the time-period indicated in the order dated July 3, 2024, referred to above.

4. We have considered the rival contentions of the parties. It may be that nothing was recovered from this petitioner. However, the charge is of conspiracy also. Generally, these kinds of transactions are undertaken by a group of persons. It is not necessary that contraband items will be recovered from the possession of each of such person. There are *prima facie* incriminating material against this petitioner. Above 13 Kgs. of heroin was seized from the accused persons.
5. Therefore, keeping in mind the restrictions in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, we are not inclined to allow the petitioner's prayer for bail. Hence, the prayer for bail is rejected.
6. The application being CRM (NDPS) 91 of 2025 is accordingly dismissed.
7. However, since the petitioner is in custody for a long period of time, we direct the learned Trial Court to expedite the trial and conclude the same within the time-period indicated in the order dated July 3, 2024. In the event the trial does not conclude within that time-period, the petitioner will be at liberty to renew his prayer for bail.
8. Learned State Advocate further tells us that February 24 and 27, 2025, have been fixed as the next dates for examination of witnesses. We direct the learned Charge Court (as we are told that the regular Presiding Officer is on leave) to ensure that

those dates are not wasted and witnesses are examined on those dates.

9. Parties to communicate this order to the learned Trial Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)