

50. 03.03.2025
Court
No.29 (Tanmoy)

Allowed

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM (NDPS) 197 of 2025

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Kaliachak** Police Station Case No. **861/2022**, dated **10.08.2022** under Sections **21(c)/25/27A/29** of the NDPS Act, 1985. Spl. Case No. 121/2022.

And

In the matter of: - **MOJAHID SK.**

...petitioner.

Mr. Tapodip Gupta

...for the petitioner.

Ms. Rituparna Ghosh De

Ms. Poulami Bose

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected earlier on two occasions, lastly on July 11, 2024, in CRM (NDPS) 985 of 2024. While rejecting his bail prayer, noting the period of his incarceration, a co-ordinate Bench directed the learned Trial Court to ensure that the charge is considered on August 21, 2024, which was the date fixed, or on any date prior thereto if the Trial Court deemed it proper and if charge is framed, then to conclude the trial as soon as possible but positively within six months from the date of framing of charge. The petitioner had also been granted liberty to renew his prayer for bail if the trial was not concluded within the time-period prescribed in that order.

2. The petitioner today says that only one out of seven charge-sheet named witnesses has been examined and that too, in part. He is now in custody for more than two years and six months.
3. Learned State Advocate, while opposing the bail prayer, says that huge quantity (603 grams) of heroin was recovered from this petitioner. There is strong evidence against him. All efforts will be made to conclude the trial on an early date.
4. We find from the records that the delay in the trial cannot be attributed to the petitioner to any extent. He has been in incarceration for a long period of time without there being appreciable progress in the trial. It is anybody's guess as to when the trial will conclude.
5. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **MOJAHID SK.** shall be released on bail upon furnishing a bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special 3rd Court, under NDPS Act, Malda, subject to condition that the petitioner shall appear before the learned Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition the petitioner,

while on bail, shall remain within the territorial jurisdiction of Kaliachak Police Station excepting for the purpose of attending Court proceedings and shall report to the Inspector-in-Charge of Kaliachak Police Station once in a week until further orders.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (NDPS) 197 of 2025 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)