

29. 11.03.2025  
Court  
No.29 (Tanmoy)

Allowed

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

**CRM (NDPS) 217 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, arising out of **Farakka** Police Station Case No. **284/2023** dated **14.7.2023** under Sections **21(c)/29** of the NDPS Act, 1985. NDPS Case No. 80/2023.

And

In the matter of: - **MD IMTIYAJ KHAN**

...petitioner.

Mr. Joy Chakraborty  
Mr. Sandip Dinda

...for the petitioner.

Mr. Ranadeb Sengupta  
Mr. Dattatreya Dutta

...for the State.

**Dictated by Arijit Banerjee, J.**

1. The petitioner complains of delay in progress of trial. He says that charge-sheet was filed in January, 2024. Charge was framed in September, 2024. Till date not a single prosecution witness has been examined. He is in custody for about one year and eight months. He prays for bail on the touchstone of Article 21 of the Constitution of India.
2. Learned State Counsel says that March 24, 25 and 26, 2025, have been fixed as the dates for recording of evidence. Huge quantity of contraband items were seized from the accused persons including this petitioner. Bail should not be granted.
3. This Court has repeatedly said that ordinarily the fundamental right of an under-trial accused to personal liberty and speedy trial must override all other considerations. Strength of the

prosecution case cannot be a justification for indefinite incarceration of an accused person.

4. We do not see the possibility of an early conclusion of the trial in the present case. The prosecution proposes to examine seven witnesses. Not even one witness has been examined till date. At the pace the trial is progressing or not progressing, as the case may be, it is anybody's guess as to when the trial will conclude.
5. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel impelled to grant bail to the petitioner.
6. Accordingly, we direct that the petitioner, namely, **MD IMTIYAJ KHAN** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-Additional District Judge, 5<sup>th</sup> Court, Berhampore, Murshidabad, subject to condition that the petitioner shall appear before the 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.
7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the

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) 217 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 with all requisite formalities.

**(Om Narayan Rai, J.)**

**(Arijit Banerjee, J.)**