

21.03.2025
Item no. 52.
Court No.29.
AB
(Rejected)

CRM (NDPS) 293 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Muchipara P.S. Case No.35 of 2023 Dated 11.03.2023 under Section 21C of the NDPS Act

And

In the matter of : Shamin Sk. @ Samin Sekh

.....Petitioner.

Mr. Joy Chakraborty

Mr. Sandip Dindafor the Petitioner.

Ms. Sreyashi Biswas,

Mr. S. Basu Roychoudhury.....for the State.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State, be kept with the records.
2. From the report we find that the prosecution intends to examine 7 out of 8 charge sheet named witnesses. 2 witnesses have been examined in full. The third prosecution witness is in the process of being examined. The report mentions that the trial should be concluded within the next five months.
3. The petitioner complains that he is in custody for more than two years. Several adjournments had to be granted by learned Trial Court on various grounds attributable to the prosecution. One of the grounds is that Public Prosecutor was not appointed for a long time by the State. The petitioner prays for bail on the touchstone of Article 21 of the Constitution of India.

4. We have considered the facts and circumstances of the case. More than 2 kilograms of heroin was allegedly recovered from the petitioner who is the sole accused in this case. That is a huge quantity of contraband item. While it is true that ordinarily, a citizen's fundamental right to personal liberty and speedy trial overrides all other considerations, in some cases, the same has to be juxtaposed against other factors like gravity of the offence, quality and quantity of incriminating evidence available, the punishment that the petitioner may have to face, if convicted, etc. In this case, if convicted, the petitioner will have to suffer imprisonment of at least ten years, which may extend upto 20 years. Prima facie, there is sufficient incriminating material against him. The State assures us that the trial shall be concluded within five months.

5. In view of the aforesaid, noting the assurance of the State, we dismiss this application, reserving liberty to the petitioner to renew his prayer for bail, if the trial does not conclude within the time period indicated in the status report filed by the State.

6. The prayer for bail stands rejected, at this stage.

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

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

