

13.05.2025

akb

Sl. 47

Ct.29

Allowed

CRM (NDPS) No. 389 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with NDPS case no. 78 of 2023 arising out of Sagardighi Police Station Case No. 294 of 2023 dated 12.7.2023 under Sections 18(b)/29 of the NDPS Act, 1985 subsequently charge sheet has been submitted for commission of offence punishable under Sections 18(b) of the NDPS Act, 1985.

And

In re: Ebrahim Hossain @ Bidya

... petitioner.

Mr. Arnab Chatterjee

Ms. Poulami Bose

...for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Nirupam Dhali

...for the State.

It is submitted on behalf of the petitioner that the petitioner is in custody for more than 1 year 10 months and that commercial quantity of 'opium derivatives' was recovered from the possession of the petitioner.

Petitioner submits that the charge sheet in this case was submitted in July, 2023 and the charge was framed in August, 2024. The bail prayer was initially rejected by this Court on 16.4.2024 and this is the renewal of the bail prayer. He further submits that 13 witnesses are required to be examined in this case but not a single witness has been examined so far and he further submits that in January, 2025 and March, 2025 the prosecution failed to bring witnesses and for which the next date is scheduled in 19th May and 21st May, 2025. He submits nobody knows when the trial would be concluded and accordingly he prays for bail on any terms and

conditions.

Learned counsel for the State opposes the prayer for bail and contended that the witnesses are going to be examined shortly.

I have considered the submissions made on behalf of the both the parties. In view of the fact that the petitioner is suffering incarceration for about one year ten months and that out of 13 witnesses, not a single witness could be examined so far and that the charge framed in this case in the month of August, 2024 and though the schedule was fixed in the month of January, 2025 and March, 2025 but the prosecution failed to bring witnesses before the court and as such, the delay in trial is not attributable to the petitioner and considering all these and only in the touchstone of Article 21 of the Constitution of India, the prayer for bail of the petitioner is allowed.

In such view of the matter, petitioner namely, **Ebrahim Hossain @ Bidya** shall be enlarged on bail upon furnishing a bond of Rs. 20,000/- with two registered sureties of Rs. 10,000/- each, one of whom must be local, subject to the satisfaction of learned Chief Judicial Magistrate, Murshidabad and on condition that he will not leave the geographical limit of district Murshidabad without taking permission from the Trial Court and also on condition that he will meet Officer-in-Charge Sagardhigi Police Station once in a week till further order and also on condition that the accused shall not mis-use the liberty granted by this Court and he shall not tamper with any evidence orally or documentary during the trial. he shall not absent himself on any day during trial and shall not commit any offence while on bail. He shall give his mobile phone number to the local police

station and shall not change it without prior permission of the Trial Court and he shall not in any manner try to delay the trial. The petitioner shall not leave the jurisdictional limit in the District of Murshidabad without taking leave from the Court below. The Court below will be at liberty to cancel the bail in the event of violation of any of the conditions without making any reference to this Court.

Be it mentioned, that nothing said herein shall be construed as an expression of opinion on the merits of the case.

The application for bail being **CRM (NDPS) 389 of 2025** is, accordingly allowed and disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)