

10.06.2025
Item no. 11
Ct. No. 29
BD.
(ALLOWED).

C.R.M. (NDPS) 481 of 2025

In Re:- An application for bail under section 439 of the Code of Criminal Procedure, 1973 corresponding with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NDPS Case No. 01 of 2023 arising out of Baishnabnagar Police Station Case No. 2 of 2023 dated 01/01/2023 under sections 21(C)/25/29 of the NDPS Act,.

In the matter of : **Sariul Sk.** Petitioner.

Mr. Sovan Dasgupta
Ms. Swagata Dasgupta ...for the Petitioner.

Mr. Joydeep Roy
Mr. Tirthankar Dhali ...for the State

It is submitted on behalf of the petitioner that petitioner was the driver of the vehicle from which the narcotic substance was allegedly recovered by the prosecution agency. However, he is in custody since 01.01.2023 and though the charge-sheet submitted in this case on 5th March, 2024 and the prosecution proposes to examine 14 witnesses out of 16 charge-sheeted witnesses, till date they could only examine 9 witnesses. He further submits that the delay in concluding the trial is not attributable to the petitioner and that PW 7, PW 5, PW 4 and PW 3, all of them failed to identify the accused person. He further submits that considering the delay in concluding the trial he may be granted bail on any terms and conditions.

Learned counsel appearing on behalf of the State opposed the bail prayer contending that nine witnesses have already been examined and the rest five witnesses will be examined shortly. He further submits that the bail prayer of the petitioner was rejected by an order dated 19.02.2024 and the petitioner also preferred a Special Leave Petition before the Apex Court and the Apex Court by an order dated 25.07.2024 rejected his bail prayer. However, liberty was given to him to file a fresh application for grant of bail in case of a change in circumstances or if the trial gets prolonged due to reasons not attributable to the petitioner or the co-accused.

Having considered the submissions made on behalf of both the parties and that the petitioner is in custody for about two and half years and that out of 14 witnesses prosecution so far could examine only 9 witnesses and nobody knows how long it will take to conclude the trial and that delay in concluding the trial is not attributable to the petitioner, the prayer for bail is allowed solely on the touchstone of Article 21 of the Constitution.

Accordingly, the petitioner namely, **Sariul Sk.** shall find bail of Rs. 20,000/- with two registered sureties of Rs. 10,000/- each, one of which must be local, subject to the satisfaction of learned Chief Judicial Magistrate, Malda, and also on condition that the

petitioner shall not leave the geographical limit of the district Malda without the leave of the trial court till further order and shall report to the Inspector-in-charge, English Bazar Police Station, Malda, once in a week until further order.

It is further ordered that the accused person 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 cell phone numbers 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 jurisdiction of the trial court without taking leave from the Court below. In case of violation of any of the conditions the trial Court will be at liberty to cancel the bail without making any further reference to this Court.

Be it mentioned, that anything said herein shall not be construed as an expression of opinion on the merits of the case by this Court.

This application for bail being CRM (NDPS) 481 of 2025 is, thus, allowed.

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

(Dr. Ajoy Kumar Mukherjee, J.)