

01.07.2025
Item no.26
Ct. No. 29
BD.

C.R.M. (NDPS) 588 of 2025

In Re:- An application for bail under section 439 of the Code of Criminal Procedure, 1973 corresponding to under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Ghola Excise Seizure List No. 49 of 2018 dated January 17, 2018 under section 8 (c) read with sections 20(b)(ii)(C)/27A/29 of the NDPS Act, 1985.

In the matter of : **Utpal Biswas** Petitioner.

Mr. Navanil De
Mr. Srinjan Ghosh ...for the Petitioner.

Mr. Debasish Roy
Mr. Kunal Ganguly
Mr. Abhishek Verma ...for the State.

Report submitted by Public Prosecutor is taken on record.

It is submitted on behalf of the petitioner that according to prosecution case 203 Kgs. of ganja was recovered from the possession of the petitioner. However, after suffering incarceration for about three years four months, his bail prayer was allowed by the trial Court.

Being aggrieved by the said order granting bail in favour of the petitioner, the State preferred an application for cancellation of bail before this High Court and this High Court by an order dated 25th July, 2022 cancelled the bail order granted by the Trial Court and asked the petitioner to surrender before the court below and thereafter directed the trial court to proceed and conclude the trial preferably within six months.

Being aggrieved by that order the petitioner herein preferred a Special Leave Petition before the Apex Court being Special Leave to Appeal (Crl.) No(s). 7084 of 2022 wherein the Apex Court directed the petitioner to surrender before the trial court and also requested the trial court to conclude the trial preferably within six months from the next date fixed for recording evidence vide order dated 22.08.2022. After about one year petitioner surrendered before the trial court on 7th August, 2023 and since then he is in custody for about one year ten months. He further submits that he preferred another bail application during this period before this High Court which was rejected vide order dated 11th July, 2024 but this High Court directed the trial court to expedite the trial and to conclude the same within a period of six months from the next date fixed for recording of evidence, without granting unnecessary adjournments to either of the parties. In spite of such direction, trial has not been concluded and prosecution has cited ten witnesses out of which they could examine only two witnesses so far and nobody knows when the trial would be concluded and as such he may be released on bail on any terms and conditions considering his overall period of detention, which is for about five years two months.

Mr. Roy, learned Public Prosecutor, High Court, Calcutta, appearing on behalf of the State opposed the

bail prayer contending that the prosecution proposes to examine only seven witnesses out of which they have already concluded the examination of two witnesses and within next six months they will be able to conclude the evidence of all prosecution witnesses. He further submits that delay in trial cannot be attributed to the State in view of the fact that counsel for the accused has took several months to conclude the cross-examination of P.W. 1. He further submits that if the petitioner is released on bail there is serious chance of his absconding and committing of similar type of offence by the petitioner cannot be ruled out.

I have considered the submissions made by learned counsel appearing on behalf of both the parties. In view of the facts and circumstances of case and the materials available so far in the record and that previous conduct of the petitioner reflects that he was absconding for a considerable period of time while he was not on bail and that rigour of section 37 of the NDPS Act, clearly attracts in respect of the present petitioner in this case, the prayer for bail is rejected.

However, trial court is directed to expedite the trial and to make every endeavour to conclude the trial preferably within a period of five months from the next date of hearing. However, if the petitioner finds no substantial progress during the said period for which the

accused person cannot be blamed the petitioner will be at liberty to pray for renewal of his bail prayer.

CRM (NDPS) 588 of 2025 is accordingly disposed of.

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.)