

11.09.2025
206.
Bd.
Ct.29
(Rejected)

C.R.M. (NDPS) 754 of 2025

In Re:- An application for Bail under section 439 of the Code of Criminal Procedure, 1973 read with section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with C. Case No. 03 of 2024 arising out of Dubrajpur Police Station Case No. 129 of 2024 dated 04.05.2024 under Sections 21(c)/29 of the NDPS Act, 1985.

And

In the matter of : **Afroz Khan Petitioner.**

Mr. Tapash Ghosh

Mr. Tamnoy Choudhury ...for the Petitioner

Mr. Sandip Chakraborty

Ms. Diksha Ghosh ...for the State

It is submitted on behalf of the petitioner that petitioner was earlier convicted in a criminal proceeding initiated under section 302 of the IPC. Against the conviction order he preferred an appeal before this High Court in CRA 137 of 2005 and also prayed for bail and this Court while admitting the appeal had granted him bail on condition that he shall appear before the trial court once in a month till disposal of the appeal. He further submits that the petitioner was attending the trial court in terms of the direction of this High Court but the police authorities directed the petitioner to leave Birbhum district and to stay elsewhere. Since the petitioner did not obey the dictum of the police authorities he was arrested in a false case and thereafter he was released on bail on 27.12. 2023 in connection with the said case initiated under section 399/402 of the IPC and 25/35 of the Arms Act.

Apprehending false implication he wrote letter to the police administration on 22nd January, 2024 and thereafter he had also given a reminder on 19.02.2024. On 29th April, 2024 he was taken into custody for the second time in connection with another false case initiated under section 25(1)(a) of the Arms Act, and the petitioner's lawyer again demanded justice about the false implication on 30th April, 2024 against police atrocities. Petitioner's grievance is that in a planned way a prayer was made by police before the learned Magistrate, Dubrajpur, for interrogation of the petitioner taking him in police custody and again the petitioner was implicated with the instant NDPS case. Expressing his anguish over the illegal investigation by the Birbhum Police he preferred a writ application before this High Court being WPA 14803 of 2024 and while disposing the writ application this High Court granted him liberty to make prayer for bail. The petitioner was released on bail by the learned Magistrate in second Arms Act case on 14.06.2024. However, his bail prayer in connection with the instant NDPS case was rejected by this High Court on 11.07.2024 and this is renewal of his bail application. He further submits that the charge-sheet was submitted against the petitioner on 9th July, 2024 and the charge was framed on 30th August, 2024 but since then several dates were fixed by the trial court but not a single witness could be examined so far. Accordingly, he submits that there is no certainty as to when the trial would be concluded and as such he may be released on bail on any terms and conditions.

Learned counsel appearing on behalf of the State opposed the bail prayer contending that according to the prosecution case commercial quantity of codeine mixture were recovered from the tenanted room of the present petitioner. He further submits that the statement of the owner of the said tenanted room was recorded during investigation which is against the petitioner. He further submits that the petitioner has criminal antecedence and as such if he is released on bail there is every chance of committing offence by the present petitioner and accordingly he opposed the bail prayer.

Having heard learned counsel appearing on behalf of the petitioner and the State and also considering the fact that this Court was pleased to reject the bail prayer of the present petitioner on earlier occasion on the ground that the petitioner failed to show that he surrendered the said tenanted premises wherefrom recovery was made and as such rigour of section 37 of the NDPS Act attracts in respect of the present petitioner. I find no material to believe that the petitioner could overcome rigour of section 37 of the NDPS Act, on the ground of which his earlier bail prayer was rejected. Moreover, there is also likelihood of committing offence by the petitioner if he is released on bail and therefore restrictions imposed under section 37 of the NDPS Act, clearly attracts in respect of the present petitioner and as such the prayer for bail made by the petitioner is considered and rejected.

The trial court is requested to make every endeavour for expeditious disposal of the case and to make its best

endeavour to conclude the trial preferably within a period of eight months from the next date of hearing.

Both parties are directed to inform the court below at once.

Accordingly, CRM (NDPS) 754 of 2025 is 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.)