

20. 24.02.2025.
Court
No.26 (Pritam)
(Allowed)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1723 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Bagnan** Police Station Case No.**36/2022** dated **29.01.2022** under Sections **20(b)(c)** of the Narcotic Drugs & Psychotropic Substances Act, 1985.

And

In the matter of: - **Anisur Kha.**

...petitioner.

Mr. Anindya Ghosh,
Mr. Pronojit Roy

...for the petitioner.

Mr. Anand Keshari
Mr. Duttatreya Dutta

...for the State.

1. Petitioner renews his prayer for bail on the ground of parity with one co-accused, who was granted the same facility on the principles of Article 21 of the Constitution of India on February 29, 2024 passed in CRM (NDPS) 374 of 2024.
2. Learned advocate appearing for the State submits that, prayer for bail for the petitioner was rejected by the co-ordinate bench on May 22, 2024 passed in CRM (NDPS) 808 of 2024 subsequent to the co-accused being enlarged on bail on February 29, 2024.
3. Apparently, the factum of the co-accused being granted bail by a co-ordinate bench on February 29, 2024 passed in CRM (NDPS)

374 of 2024 was not drawn to the attention of the bench who rejected the prayer for bail by the petitioner on May 22, 2024.

4. Co-accused who was granted bail by the co-ordinate bench was done so on the principles of Article 21 of the Constitution of India and on the ratio of *(2023) SCC OnLine SC 1109; Rabi Prakash Vs. State of Odisha*.
5. Petitioner is in custody for in excess of 3 (three) years and 1 (one) month. Only one prosecution witness was examined. Possibility of the trial not concluding in the near future exists.
6. Petitioner, therefore, stands on the same footing as that of February 29, 2024 when, the co-accused was enlarged on bail by the co-ordinate bench. One out of five prosecution witnesses was examined. One year down the lane, the prosecution is yet to conclude recording its evidence before the learned trial judge.
7. In such circumstances, we find that the petitioner stands on the same footing as that with the co-accused who was granted bail on February 29, 2024 in CRM (NDPS) 374 of 2024.
8. On the ground of parity, we grant bail to the petitioner.
9. Accordingly, we direct that the petitioner, namely, **Anisur Kha.** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned *Judge, Special Court, NDPS Act, 3rd Court, Howrah*. The petitioner shall appear before the trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of the

Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

10. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this court.

11. The application for bail being CRM (NDPS) 1723 of 2024 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)