

63. 02.01.2025  
Court  
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1855 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 **Karaya** Police Station Case No. **97/2022** dated **21.4.2022** under Section **22(c)** of the NDPS Act, 1985.

And

In the matter of: - **Sk. Shahnawaz @ Sameer**

...petitioner.

Mr. Subhajit Chowdhury

...for the petitioner.

Mr. Avishek Sinha

Mr. Karan Bapuli

...for the State.

**Dictated by Arijit Banerjee, J.**

1. Status report filed on behalf of the State be kept with the records.
2. The petitioner is in custody for about two years and eight months. He had applied for bail earlier by filing CRM (NDPS) 1633 of 2023. By an order dated October 6, 2023, while rejecting his prayer for bail, a co-ordinate Bench had directed the Trial Court to conduct the trial “*as expeditiously as possible and conclude the same at an early date preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.*” The petitioner says that as on October 6, 2023, only one witness had been examined in part. There is no possibility of an early conclusion of the

trial. On the touchstone of Article 21 of the Constitution of India, the petitioner prays for bail.

3. Learned State Advocate candidly submits that the contention of the petitioner insofar as examination of witnesses is concerned, is correct. PW2 is in the process of being examined. The next date fixed is January 18, 2025. Learned Counsel, in his usual fairness, leaves the matter to the discretion of the Court.
4. The petitioner is already in custody for a considerable period of time. We see that there has been very little progress between October 6, 2023 and the present date. At this pace, it is anybody's guess as to when the trial will conclude. An under-trial cannot be kept in indefinite incarceration.
5. Hence, without touching the merits of the case and solely on the ground of inordinate delay in progress of the trial and long custodial detention of the petitioner, we feel constrained to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Sk. Shahnawaz @ Sameer** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, NDPS Act, Additional District & Sessions Judge, 12<sup>th</sup> Court at Alipore, South 24-Parganas, subject to condition that 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 Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (NDPS) 1855 of 2024 is accordingly disposed of.
9. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

**(Arijit Banerjee, J.)**

**(Apurba Sinha Ray, J.)**