

D/L. 40.
May 30, 2024
MNS/MB

CRM (NDPS) 897 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.05.2024 in connection with Swarupnagar Police Station Case No. 219 of 2023 dated 05.04.2023 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Mahasin Biswas

.... Petitioner

Mr. Angshuman Chakraborty,
Mr. Shashanka Sekhar Saha

... for the petitioner

Mr. Rana Mukherjee,
Mr. Aritra Bhattacharya

... for the State.

1. Learned advocate for the petitioner submits that the petitioner was arrested on April 4, 2023 and since then he is in custody.
2. Twenty-five bottles of phensedyl were recovered from the possession of the present petitioner.
3. It has been submitted that charge has been framed. Till now no witnesses has been examined, although there are eleven witnesses to be examined by the prosecution in order to prove the case.
4. Mr. Mukherjee, learned advocate appearing for the State opposes the prayer for bail and submits that in view of the rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner should not be released on bail.
5. However, having considered the fact that more than thirteen and half months have passed and on the last schedule, no witnesses were present

in court and the next date is fixed in the month of July, 2024, we are of the opinion that there is no chance of the trial being concluded very soon.

6. Having regard to the observation of the Hon'ble Supreme Court in Rabi Prakash Vs. State of Odisha reported in 2023 SCC online 1109, wherein the Hon'ble Supreme Court was pleased to hold that the liberty of the accused persons must override the statutory embargo under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, we are of the view that the petitioner should be released on bail.
7. Accordingly, CRM (NDPS) 897 of 2024 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District and Sessions Judge, 6th Court, Barasat, District – North 24 Parganas/learned Chief Judicial Magistrate, Barasat, District – North 24 Parganas.
8. If on bail, the petitioner shall make himself present on each and every date fixed before the learned trial court.
9. The learned special Judge will be at liberty to impose any other condition to ensure the availability of the petitioner.
10. It is further directed that the trial of the case would continue inspite of any Resolution of the local Bar and no adjournment should be granted to the parties, if the prosecution witness is present on the date so fixed.
11. In violation of the aforesaid conditions, the learned Special Judge will be at liberty to cancel the bail without further reference to this Court.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Biswaroop Chowdhury, J.)