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Allowed

C.R.M. (NDPS) No. 1372 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Uttarpura Police Station Case No. 82 of 2020 dated 28.02.2020 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And

In Re : Sandip Nandi petitioner

Mr. Uday Sankar Chattopadhyay

Mr. Suman Sankar Chattopadhyay

Mr. Santanu Maji

Mr. Pranay Basak

Mr. Debdipta Banerjee

.....for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

.....for the State

Inspector-in-Charge, Uttarpura Police Station is present in person. Report is submitted by him. Personal appearance of the inspector-in-Charge, Uttarpura Police Station is noted and dispensed with.

It appears from the report that charge was framed on 15.03.2001. No witness has been produced till date. Explanation with regard to delay in trial is vague and unacceptable.

In view of the protracted period of detention suffered by the petitioner and the indolence on the part of the prosecuting agency to produce and examine witnesses including official witnesses, we are of the opinion the fundamental right of the petitioner of speedy trial under Article 21 of the Constitution of

India is violated and he is entitled to grant of bail on this score alone. Release of the petitioner on this score would not attract the statutory restrictions under Section 37 of the NDPS Act.

Hence, we are of the opinion petitioner has been able to rebut the statutory presumption under Section 37 of the NDPS Act and he may be granted bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Hooghly, subject to conditions that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court 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.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)