

23.12.2022
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 1533 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.12.2022 in connection with North Port Police Station Case No. 82 dated 24.10.2017 under Section 21(b) of the NDPS Act. (NDPS Case No.35 of 2017)

And

In Re: ***Umesh Mallick***

... .. Petitioner

Md. Khairul
Md. Irfan

... .. for the petitioner

Mr. Sanjay Bardhan
Mr. Palash Ch. Majhi

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about two years and five months. It is further submitted there is inordinate delay in the trial of the case.

Learned advocate appearing for the State opposes the prayer for bail and submits delay was due to vacancy in the trial court.

We have considered the materials on record. Petitioner is in custody for more than five years. Only one prosecution witness has been examined so far. Petitioner did not contribute to the delay. Under such circumstances, we are constrained to hold the fundamental right of the petitioner to speedy trial under Article 21 of the Constitution of India has been infringed. Accordingly, he is entitled to bail on such score alone.

Therefore, the accused/petitioner, namely ***Umesh Mallick***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan

Magistrate, Calcutta subject to condition that the said petitioner 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 or commit similar offences in future.

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 automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)