

10.01.2023.
11.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 26 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.23 of 2020 arising out of Bhagwangala P.S. Case No.47 of 2020 dated 25.01.2020 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Aziz Sk @ Md. Azizul Kalam.

.... Petitioner.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Mr. D. Banerjee,
Ms. Trisha Rakshit,
Ms. Rajashree Tah.

...for the Petitioner.

Mr. Ranadeb Sengupta.

...for the State.

Petitioner is in custody for about three years. It is contended direction was given by this Court in CRM 2814 of 2021 to conclude trial within one year. But only two witnesses have been examined till date. He renews his prayer for bail.

Learned Advocate appearing for the State opposes the prayer for bail. He submits witness action has commenced and seven more witnesses are to be examined.

We have considered the materials on record. On 08.11.2021 while rejecting the bail prayer of the petitioner, this Court directed conclusion of trial preferably within one year. Since then, three schedules were fixed in January, 2022, March, 2022 and June, 2022 respectively. But no witness was examined. Only in September 29, 2022, two witnesses have been examined. Progress in the trial is not appreciable and there is little possibility of the trial concluding in the near

future. Petitioner is in custody for about three years. This prompts us to conclude that his fundamental right to speedy trial has been infringed in this case.

Under such circumstances, we are inclined to enlarge the petitioner on bail on such score.

Accordingly, the petitioner viz., Aziz Sk @ Md. Azizul Kalam 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 N.D.P.S. Act, Murshidabad at Berhampore subject to condition 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 the petitioner 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.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)