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Allowed

C.R.M. (NDPS) No. 47 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 45/NCB/KOL/2016 dated 22.11.2016 under Sections 8(c)/15/29 of the N.D.P.S. Act.

And

In Re : Sapan Mandal petitioner

Mr. Ayan Basu
Sk. Salim
Mr. Sumit Routh

.....for the petitioner

Mr. Rajdeep Majumder
Mr. Pritam Roy
Mr. Koustav Lal Mukhrjee

.....for the NCB

Learned Counsel for the petitioner submits petitioner is in custody for more than six years. It is also submitted that this Court in CRM(NDPS) No. 560 of 2022 while rejecting the bail prayer of the petitioner directed examination of witnesses on a day-to-day basis and to conclude the trial positively within six months from the next date fixed for recording evidence. Thereafter, only one witness has been examined in part. Accordingly petitioner prays for bail.

Learned Counsel appearing for the State submits report with regard to the status of trial.

We have considered the materials on record. Though this Court had directed completion of trial within six months i.e. within June, 2022, since then only one witness has been

examined that too in part. Progress in the trial is most tardy. This has infringed the fundamental right to speedy trial of the petitioner who is languishing in jail for more than six years. Bail prayer on the ground of delay is not fettered by statutory restrictions under Section 37 of the NDPS Act. Under such circumstances, we are inclined to grant bail to the petitioner.

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, 3rd Special Court under NDPS Act, Purba Bardhaman, 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.)