

31.01.2023.
03.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 100 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No.48/NCB/KOL/2016 dated 07.12.2016 under Sections 18(b)/29 of the NDPS Act and Section 8 (c) of the NDPS Act.

In the matter of : Merajul Hoque.

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kr. Bhowmick.

...for the Petitioner.

Mr. Arun Kr. Maity (Mohanty),
Mr. Rajesh Kr. Shah.

...for the NCB.

Petitioner is in custody for more than six years. He submits there is delay in trial. He prays for bail.

Learned Advocate for the NCB opposes the bail prayer. He submits report. He contends bail prayer of the petitioner was rejected in June, 2022. Since then trial court is lying vacant. Two out of six witnesses have already been examined.

We have considered the materials on record. Petitioner is in custody for more than six years. Charge was framed in 2018. He approached this Court earlier in 2019 where a Co-ordinate Bench of this Court directed expeditious conclusion of trial. But, only two witnesses have been examined till date and petitioner again approached this Court in June, 2022. His prayer for bail was turned down with the expectation that the trial would conclude in six months.

Such expectation was belied as the Court is lying vacant. It appears from the aforesaid circumstances that the petitioner

is not responsible for the inordinate delay in trial. His right to speedy trial under Article 21 of the Constitution of India is infringed due to the aforesaid circumstances and he is entitled to bail on such score. Bail prayer on the score of delay is not fettered by Section 37 of the NDPS Act.

Accordingly, the petitioner viz., Merajul Hoque 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, Malda 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.)