

25.01.2023

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Allowed

C.R.M. (NDPS) No. 113 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Islampur Police Station Case No. 57 of 2019 dated 01.02.2019 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Sabirul Mollick @ Sabirul Mallik @ Mallik Sabirul petitioner

Mr. Tapodip Gupta

.....for the petitioner

Mr. Ranadeb Sengupta

.....for the State

Learned Counsel for the petitioner submits petitioner is in custody for three years and eleven months. It is also submitted that there is inordinate delay in trial. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits three witnesses have already been examined. There was delay due to pandemic conditions intervening the trial schedule.

We have considered the materials on record. Though trial was adjourned due to pandemic conditions no explanation is forthcoming why all witnesses have not been examined till date. Petitioner is in custody for about four years. He has not contributed to the delay. In this factual matrix, we are of the opinion the fundamental right of the petitioner to speedy trial under Article 21 of the Constitution of India has been infringed. Bail prayer of the petitioner on such score is not fettered by the

statutory restrictions under Section 37 of the NDPS Act. Accordingly, 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, Special Court under NDPS Act, Berhampore, Murshidabad, 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.)