

30.01.2023.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 118 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.19 of 2018 arising out of English Bazar P. S. Case No.290 of 2018 dated 30.03.2018 under Sections 15(c)/22/29 of the NDPS Act.

In the matter of : Nabi Mia @ Nabi Miah.

.... Petitioner.

Mr. Avinaba Patra.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.

...for the State.

Petitioner is in custody for more than four and half years.

It is submitted there is inordinate delay in trial. He prays for bail.

Learned Advocate for the State opposes the bail prayer.

He submits delay was due to vacancy in the trial court.

We have considered the materials on record. Charge was framed on 26.06.2019. Till date only five out of twelve witnesses have been examined. Court is lying vacant from November, 2021.

Under such circumstances, we are constrained to hold that the fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail. Bail prayer on such score is not fettered by Section 37 of the NDPS Act.

Accordingly, the petitioner viz., Nabi Mia @ Nabi Miah 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.)