

02.02.2023.
25.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 162 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.149 of 2018 arising out of Lalgola P. S. Case No.249 of 2018 dated 03.05.2018 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Kausar Sk @ Kawsar Sk.

.... Petitioner.

Mr. Tapodip Gupta.

...for the Petitioner.

Mr. Saswata Gopal Mukherji, ld. P.P.,

Mr. Saryati Datta.

...for the State.

Petitioner is in custody for four years and ten months. No witness has been examined. There is inordinate delay in trial. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits delay is not only at the end of the prosecution but due to the vacancy in the trial court.

We have considered the materials on record. Charge was framed in 2020. Till date a number of schedules were fixed but no witnesses was examined. Even if there was vacancy in the trial court, nothing is placed to show that witnesses were present on the scheduled dates so that the judge-in-charge could have examined them. This is a clear default on the part of the prosecution which infracts the fundamental right to speedy trial under Article 21 of the Constitution of India of the petitioner. Hence, we are inclined to grant bail to the petitioner on this score alone.

Accordingly, the petitioner viz., Kausar Sk @ Kawsar Sk. 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.)