

06.02.2023
Sl. No.8
akd
[ALLOWED]

C. R. M. (NDPS) 183 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.01.2023 in connection with Memari Police Station Case No. 319 of 2019 dated 15.06.2019 under Section 21(c) of the NDPS Act.

And

In Re: **Sk. Firoj**

... .. Petitioner

Mr. Uday Sankar Chattopadhyay
Mr. Rajashree Tah
Ms. Trisha Rakshit

... .. for the petitioner

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Mrs. Sonali Das

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about three years and seven months. It is further submitted there is inordinate delay in trial. No witnesses have been examined till date.

Learned Additional Public Prosecutor opposes the prayer for bail.

We have considered the materials on record including the order sheet. Charge was framed in March, 2021. Inspite of a number of schedules being fixed for examination of witnesses, no witness has been examined till date. The aforesaid circumstances show breach of fundamental right to speedy trial of the petitioner which entitles him to bail. Bail prayer on this score is not fettered by restrictions under Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely **Sk. Firoj**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom

must be local, to the satisfaction of the learned Judge, 3rd Court, Special Court under the NDPS Act, Purba Bardhaman subject to condition that the said petitioner 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 or commit similar offences in future.

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 automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)