

08.02.2023

9

sdas

Allowed

C.R.M. (NDPS) No. 212 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dasnagar Police Station Case No. 103 of 2020 dated 18.08.2020 under Section 21(c) of the N.D.P.S. Act.

And

In Re : Harinder Singh petitioner

Mr. Mukteswar Maity

.....for the petitioner

Mr. Saibal Bapuli, learned APP

Mr. Arani Bhattacharyya

Mr. Bibaswan Bhattacharya

.....for the State

Learned Counsel for the petitioner submits he is in custody for more than two years. Charge has not been framed as yet. There is inordinate delay in trial. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits delay was due to non-appearance of a co-accused due to ill health who has subsequently died.

We have considered the materials on record. There are materials implicating the petitioner in the crime. However, bail is sought for on the ground of inordinate delay. Petitioner has suffered incarceration for more than two years. He did not contribute to the delay. Charge has not been framed as yet.

Under such circumstances, we are inclined to hold the fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on that score. Bail prayer on

the ground of delay is not fettered under Section 37 of the NDPS Act.

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, Howrah, 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.)