

09.02.2023
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 252 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.02.2023 in connection with Mothabari Police Station Case No. 286 of 2019 dated 20.07.2019 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.12 of 2019)

And

In Re: ***Jaman Biswas @ Kamrujjaman Chowdhury***
... .. Petitioner

Md. Sabir Ahmed
Md. Kutubuddin
... .. for the petitioner

Mr. T. D. Nandy
Mr. Antarikhya Basu
... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about three years. It is further submitted there is inordinate delay in trial.

Learned Advocate for the State opposes the prayer for bail and submits examination of PW1 is in progress.

We have considered the materials on record. There are materials to show petitioner is the owner of the vehicle which was used to transport narcotics. However, bail prayer is made on the ground of delay in trial. Though the petitioner is in custody for about three years, only one witness has been examined in part. Petitioner has not contributed to the delay. This clearly demonstrates breach of his fundamental right to speedy trial under Article 21 of the Constitution of India. Bail prayer of the petitioner on this score is not fettered under Section 37 of the NDPS Act. Under such circumstances, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely ***Jaman Biswas @ Kamrujjaman Chowdhury***, 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, Special Court under the NDPS Act-cum-Additional District & Sessions Judge, 4th Court, Malda 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.)