

08.02.2023.
18.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 221 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.147 of 2019 arising out of Swarupnagar P. S. Case No.787 of 2019 dated 26.09.2019 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Ram Prasad Kabiraj.

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioner.

Mr. T. D. Nandy,
Mr. Antarikhya Basu.

...for the State.

Petitioner is in custody for more than three years. He submits there is inordinate delay in trial. He renews his prayer for bail.

Learned Advocate for the State opposes the bail prayer. He submits delay was due to non-production of accused due to his illness.

We have considered the materials on record. There are materials to show recovery of 7.5 ltrs. of codeine mixture from petitioner and co-accused. However, he has suffered detention for more than three years. Though charge was framed in November, 2021, no witness has been examined till date. This infracts the fundamental right of the petitioner to speedy trial and he is entitled to bail on this score alone. Bail prayer on the ground of delay in trial is not fettered under Section 37 of the NDPS Act.

Accordingly, the petitioner viz., Ram Prasad Kabiraj 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, Barasat, North 24-Paraganas 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.)