

10.02.2023
sdas/tkm/ct 28
sl no. 17

C.R.M. (NDPS) 226 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Raninagar P.S case no. 438 of 2021 dated 2.10.2021 under sections 21(c)/29 of the NDPS Act
and

Allowed

In Re : Mithu Mondal @ Mithun petitioner

Mr. Arnab Chatterjee

..... for the petitioner

Mr. Ranabir Roy Chowdhury

..... for the State

Petitioner is in custody for more than one year. It is submitted chemical examiner's report has not been filed. Right to speedy trial is not restricted to enquiry and trial alone.

Learned lawyer for the State opposes the bail prayer and submits co-accused is absconding.

We have considered the materials on record. Non-availability of chemical examiner's report is an essential lacuna in the prosecution case. Without chemical examiner's report, trial court would not be in a position to proceed with the trial. Though the petitioner is languishing in jail for more than one year, no explanation is forthcoming why the chemical examiner's report has not been obtained till date. This infracts the right to speedy trial as much available to an accused during investigation as during enquiry and trial. Hence, we are inclined to grant bail to the petitioner on this score.

Accordingly, the petitioner 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 Additional District and Sessions Judge, 2nd Court (Special Court

under NDPS Act), Berhampore, Muirhsidabad on condition that the petitioner shall appear before the trial court on every date of hearing 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 justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (NDPS) 226 of 2023 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)