

09.02.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 231 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.02.2023 in connection with Raninagar Police Station Case No. 526 of 2020 dated 30.12.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.03 of 2021)

And

In Re: ***Ainal Sekh @ Ainal Sk.***

... .. Petitioner

Mr. Saryati Datta
Mr. Tapodip Gupta

... .. for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than two years. It is further submitted there is inordinate delay in trial. Chemical examiner's report has not been submitted.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. Though the petitioner is in custody for more than two years, Chemical examiner's report has not been submitted. Right to speedy trial under Article 21 of the Constitution of India is not restricted to enquiries or trials alone. It also mandates speedy investigation. Failure to obtain chemical examiner's report while the petitioner languishes in jail for more than two years is a clear infraction of his fundamental right to speedy investigation. 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 ***Ainal Sekh @ Ainal Sk.***, 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 Judge, 2nd Court, Berhampore, Murshidabad 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.)