

21.02.2023
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allowed

CRM(NDPS) No. 234 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kandi Police Station Case No. 99 of 2020 dated 21.02.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Humayun Sk. @ Humayan Seikh petitioner

Mr. Soumyajit Das Mahapatra
Mr. Somnath Adhikary

.... for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

.... for the State

Learned Counsel for the petitioner submits he is in custody for about three years. No chemical examiner's report has been filed before the trial court.

From our earlier order dated 20.04.2021 in CRM 1473 of 2021, we note chemical examiner's report was available with the investigating agency. But for reasons best known to the investigating agency, the chemical examiner's report had not been submitted before the trial court.

Report is placed on record. From the report we note failure to submit report was due to the indolent conduct of the Inspector-in-Charge, Kandi Police Station, and the investigating officers. Explanation has been called for from the said officers.

Under such circumstances, we are constrained to observe delay in the matter is due to indolence of the investigating agency

and not the petitioner. Petitioner is in custody for three years. Hence, we are inclined to grant bail to the petitioner.

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, Berhampore, Murshidabad, subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without 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.

Superintendent of Police, Murshidabad, shall submit report with regard to the steps taken against the erring police officers by the adjourned date.

Let the matter appear four weeks hence (21.03.2023).

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)