

12.10.2023

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Allowed

C.R.M. (NDPS) No. 248 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. 434 of 2021 dated 18.08.2021 under Section 21(c) of the NDPS Act.

And

In Re : Manirul Sk. @ Sentu @ Monirul Sk. petitioner

Mr. S. Das Mahapatra
Mr. Ali Ahasan Alamgir
Ms. Soma Mal

....for the petitioner

Mr. Swapan Banerjee
Mr. Suman De

....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. In spite of direction given by this Court in August, 2022 to conclude trial at an early date no prosecution witness has been examined. He prays for bail on the ground of delay in trial.

2. Learned Counsel for the State opposes the prayer for bail and submits five litres of codeine mixture was recovered from the possession of the petitioner. Chemical examiner's report has been filed before the trial court.

3. We have considered the materials on record. Though petitioner is in custody for more than three years, no prosecution witness has been examined. Witness warrant was issued to ensure their attendance. This shows callous indifference on the part of the prosecution to ensure speedy

trial. Under such circumstances we are constrained to hold petitioner has been able to make out a case of infraction of his fundamental right to speedy trial and is entitled to bail on this score. Accordingly, we are inclined to grant bail to the petitioner.

4. 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, Murshidabad at Berhampore, subject to conditions that 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.

5. 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.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)