

16.02.2023
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allowed

CRM(NDPS) No. 277 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 29/NCB/KOL/2017 under Sections 20(b)(ii)(C) of the NDPS Act.

And

In Re : Jakir Hussain petitioner

Mr. Amanul Islam

Mr. Sourav Mukherjee

Mr. Arka Chakraborty

.....for the petitioner

Mr. Kallol Mondal

..... for the NCB

Learned Counsel for the petitioner submits he is in custody for more than five years. There is inordinate delay in trial. He renews his bail prayer.

Learned Counsel for the NCB opposes the prayer for bail and submits witnesses have already been examined.

We have considered the materials on record. Petitioner has approached this Court seeking bail in CRM(NDPS) No. 797 of 2022. By order dated 18.07.2022 this Court directed the trial court to conclude the trial as expeditiously as possible preferably within six months from the next date fixed for recording evidence. Though more than eight months have expired only two witnesses have been examined in the meantime. There is little possibility of trial concluding in the near future. Under such circumstances, we are constrained to observe right to speedy trial of the petitioner has been infringed. He is entitled to bail on such score. Bail prayer of the petitioner on the ground of inordinate delay is not

fettered by Section 37 of the NDPS Act. Accordingly, 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 and Additional District & Sessions Judge, 6th Court, Barasat, 24 Parganas (North), on further conditions that while on bail the petitioner shall remain within the jurisdiction of District North 24 Parganas until further orders except for the purpose of attending court proceeding and shall provide the address where he shall presently reside to the investigating agency and the court below and shall report to the Officer-in-Charge of the Police Station concerned once in a week until further orders. 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)