

22.02.2023
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allowed

CRM (NDPS) No. 312 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 647 of 2020 dated 27.08.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Aniul Sk. petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

.....for the petitioner

Mr. Ranabir Roychowdhury
Mr. Mainak Gupta

..... for the State

Learned Counsel for the petitioner submits that he is in custody for more than two and half years. It is also submitted there is inordinate delay in trial. Charge has not yet been framed. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits date has been fixed for consideration of charge.

We have considered the materials on record. Petitioner is in custody for more than two years. No convincing explanation is forthcoming why charge had not been framed. Petitioner had not contributed to the delay. This inordinate delay infracts the fundamental right to speedy trial of the petitioner. Bail prayer on the ground of 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, Malda, subject to the 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 automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)