

20.03.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 356 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.02.2023 in connection with Jalangi Police Station Case No. 395 of 2020 dated 19.11.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Shaharul Mandal @ Saharul Mondal @ Saharur Mondol***
... .. Petitioner

Mr. Somnath Adhikary
... .. for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty
... .. for the State

Petitioner renews his prayer for bail. It is submitted on behalf of the petitioner that he is in custody for about two years and five months. It is further submitted there is inordinate delay in trial.

Report is placed on record. From the report it appears that supplementary charge-sheet enclosing the chemical examiner's report was filed only in 2023.

We have considered the materials on record. Petitioner has already suffered incarceration for 2½ years. Delay in the matter was due to non-submission of chemical examiner's report and cannot be attributed to the petitioner. This has resulted in infraction of fundamental right to speedy trial of the petitioner. Prosecution proposes to examine eleven witnesses and there is little chance of trial concluding in the near future. Bail prayer on the ground of delay is not fettered by restrictions under Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely ***Shaharul Mandal @ Saharul Mondal @ Saharur Mondol***, 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, 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.)