

22.03.2023  
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allowed

CRM (NDPS) No. 380 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 789 of 2018 dated 03.12.2018 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Md. Sujauddin Sk. .... petitioner

Mr. Tapodip Gupta

.....for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Mainak Gupta

..... for the State

Learned Counsel for the petitioner submits he is in custody for more than four years. It is also submitted that there is inordinate delay in trial. He prays for bail.

Learned Counsel for the State submits report. It is submitted that delay was due to vacancy in the trial court.

We have considered the materials on record. Charge was framed in 2019 but no witnesses was examined till December, 2021. No explanation for such delay is forthcoming from the records. Even thereafter the trial has progressed at a very slow pace. Though some part of the delay may be attributed due to systematic reasons i.e. vacancy in the trial court it is undeniable that the prosecution is also not diligent in the matter. Under such circumstances we are constrained to

observe the fundamental right to speedy trial of the petitioner is infracted and he is entitled to bail on this score. Bail prayer of the petitioner on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. 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 cum Additional District Judge, 2<sup>nd</sup> Court at Berhampore, Murshidabad, 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.)**