

23.03.2023
Sl. No.3
akd
[ALLOWED]

C. R. M. (NDPS) 399 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.02.2023 in connection with NCB Crime No.04/NCB/KOL/2018 dated 14.01.2018 under Sections 20(b)(ii)(B)/22(c)/29 of the NDPS Act. (NDPS Case No.05 of 2018)

And

In Re: **Krishna Chandra Das**

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Dipankar Dandapath
Mr. Jasojeet Mukherjee

... .. for the NCB

It is submitted on behalf of the petitioner that he is in custody for more than five years. It is further submitted there is inordinate delay in trial.

Learned Advocate for the NCB opposes the prayer for bail and submits large volume of *methamphetamine tablets* and *Ganja* were recovered from the shop of the petitioner. Similar recoveries were made from co-accuseds. Trial is in progress.

We have considered the materials on record. No doubt, allegations involve dealing in narcotics above commercial quantity. However, petitioner has suffered detention for more than five years. In spite of such prolonged period of detention, charge was framed in May, 2022 and only one witness has been examined till date. Prosecution proposes to examine eleven witnesses. There is little possibility of the trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground of inordinate

delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

Therefore, the accused/petitioner, namely ***Krishna Chandra Das***, 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, 4th Court, Malda 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.)