

21.03.2023.
20.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 444 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.30 of 2019 arising out of Special Task Force (STF) P. S. 28 of 2019 dated 05.08.2019 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

In the matter of : Shafiuddin Sk.

.... Petitioner.

Ms. Minoti Gomes,
Mr. Joy Chakraborty,
Mr. Sandip Dinda,
Ms. Ipsita Ghosh.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Baishakhi Chatterjee.

...for the State.

Petitioner is in custody for more than three years. He submits there is inordinate delay in trial. He prays for bail.

Learned Advocate for the State opposes the prayer for bail. He submits over 28 kgs. of opium was recovered from petitioner and co-accused. Delay in the matter cannot be attributed to the prosecution.

We have considered the materials on record. Though petitioner is in custody for more than three years, charge was framed only in May, 2022. No explanation for the delay in framing charge is forthcoming. Prosecution proposes to examine 24 witnesses. There is little possibility of trial concluding in the near future. Though some part of the delay may be attributed due to systemic reasons, lack of urgency on the part of the prosecution is evident from the records of the

case. This clearly infracts the fundamental right to speedy trial of the petitioner. Till date no witness has been examined.

Under such circumstances, we are inclined to grant bail to him.

Accordingly, the petitioner viz., Shafiuddin Sk shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge Bench-I, NDPS Act, City Sessions Court, Calcutta subject to condition that he 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 and on further condition petitioner while on bail shall remain within the Municipal limits of Kolkata and report to the Officer-in-charge of the STF Police Station once in a week until further orders.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)