

21.03.2023
Sl. No.24
akd
[ALLOWED]

C. R. M. (NDPS) 448 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.03.2023 in connection with Baishnabnagar Police Station Case No. 495 of 2017 dated 29.06.2017 under Sections 15(c)/29 of the NDPS Act.

And

In Re: ***Muslim Hossain***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Paramanick

... .. for the State

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 Additional Public Prosecutor opposes the prayer for bail and submits trial has considerably progressed. Nine witnesses have already been examined.

We have considered the materials on record. Petitioner is in custody for more than five years. Trial has not concluded as yet. Further detention of the petitioner would infract his right to speedy trial under Article 21 of the Constitution of India. Under such circumstances, we are of the opinion petitioner is entitled to bail on this score. Bail prayer on the ground of delay is not fettered by restrictions under Section 37 of the NDPS Act.

Therefore, the accused/petitioner, namely ***Muslim Hossain***, 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-cum-Additional District Judge, 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.)