

10.04.2023.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 493 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.63 of 2019 arising out of Lalgola P. S. Case No.227 of 2019 dated 16.03.2019 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Sinanda Mondal @ Sinandan Mondal.
.... Petitioner.

Mr. Arnab Chatterjee,
Mr. Anisur Rahman,
Ms. Dhanasree Biswas,
Ms. Poulami Bose.

...for the Petitioner.

Mr. Ranadeb Sengupta.

...for the State.

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

Learned Advocate for the State opposes the bail prayer. He submits report. It is noted in the report that necessary witness protection measures have been taken with regard to independent witness.

We have considered the materials on record. From the report, it appears no prosecution witness was produced in course of schedules fixed for recording evidence. It is contended in most of the schedules trial court was lying vacant and in one schedule the case diary was lying before the High Court. None of the aforesaid obstacles prevented the prosecution from making prayer for recording prosecution evidence by the Judge-in-charge or to remit the case diary to

the trial court for conducting trial pending hearing of the bail application. Failure to address these issues show indifference on the part of the prosecution to conduct trial with expedition. Delay in the matter cannot be attributed to the petitioner.

Under such circumstances, we are constrained to observe that the fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered under Section 37 of the NDPS Act. Hence, he may be enlarged on bail.

Accordingly, the petitioner viz., Sinanda Mondal @ Sinandan Mondal 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 the NDPS Act, Murshidabad at Berhampore 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 that the petitioner while on bail shall remain within the District of Murshidabad and report to the Officer-in-charge, Lalgola 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.

Presence of the Officer-in-charge, Lalgola Police Station and the Investigating Officer is noted and dispensed with.

This application for bail is, thus, disposed of.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)