

03.04.2023
Sl. No.4
akd
[ALLOWED]

C. R. M. (NDPS) 508 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.03.2023 in connection with Hastings Police Station Case No.08 of 2018 dated 11.01.2018 under Sections 8(c)/21(c) of the NDPS Act. (NDPS Case No.04 of 2018)

And

In Re: ***Kajal Mondal @ Tall Mondal***

... .. Petitioner

Mr. Asraf Mondal
Md. Bani Israil

... .. for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty

... .. 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.

Report is placed on record.

Learned Advocate for the State submits presiding officer is absent which contributed to the delay.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity, there is inordinate delay in trial. Major portion of the delay is attributable to the prosecution which failed to produce witnesses for examination. Prosecution proposes to examine seven witnesses and only one witness has been examined in part. 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 ***Kajal Mondal @ Tall Mondal***, 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, Bench-I, City Sessions Court, Calcutta 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 and on further condition that the petitioner, while on bail, shall not leave the jurisdiction of the district of Nadia and shall report to the Officer-in-charge, Karimpur Police Station once in a week until further orders.

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.)