

29.03.2023
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allowed

CRM(NDPS) No. 553 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with STF Police Station Case No. 13 dated 03.04.2019 under Sections 15(C)/29 of the NDPS Act.

And
In Re : Anup Bhakat petitioner

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Karan Dudhwewala
.....for the petitioner

Mr. Sanjoy Bardhan
Ms. Debjani Dasgupta
..... for the State

Learned Counsel for the petitioner submits he is in custody for about four years. There is inordinate delay in trial. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits one witness has been examined in part. Due to absence of Presiding Officer there was delay in trial.

We have considered the materials on record. Charge was framed on 10.12.2020. One prosecution witness was examined from March, 2021 to October, 2022. We do not appreciate the staggered manner of examination of the witness. A witness ought to be examined in full on a single day and if it is not possible positively within two to three days. Prolonged examination of a witness is not only vexatious to the witness but gives opportunity to influence and win over the said witness. Be that as it may, we are unable to accede to the prayer of the State that the delay is

primarily attributable to systematic reasons. The chronology of events do not show sufficient alacrity on the part of the prosecution to promptly examine its witnesses. At this pace there is little possibility of the trial concluding in the near future. Though the allegations are grave and involve possession of 958 kgs. of Poppy Straw, we are of the opinion slow progress in trial has infringed the fundamental right of the petitioner to speedy justice and he is entitled to bail on this score. Bail prayer of the petitioner on this ground is not fettered by Section 37 of the NDPS Act. Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly we direct that the petitioner 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, Bench-I, (NDPS Act), City Sessions Court, Calcutta, on conditions that he shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing.

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

The application for bail is, accordingly, allowed.

We request the trial court to conduct the trial bearing in mind the necessity of prompt and continuous examination of the prosecution witnesses. During examination of the witnesses

adjournments to either of the parties shall not be granted and examination shall be concluded as far as practicable in the same schedule.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)