

03.04.2023
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 621 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.03.2023 in connection with Basirhat Police Station Case No.288 of 2020 dated 27.02.2020 under Section 21(c) of the NDPS Act.

And

In Re: ***Alim Molla***

... .. Petitioner

Mr. Kallol Kr. Basu
Md. Jannat-ul-Firdous

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is inordinate delay in trial.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. Though recovery from the petitioner is to the tune of 10 ltrs. of *codeine phosphate*, which is above commercial quantity, prosecution failed to produce witnesses in the course of a number of schedules. Charge had been framed in September, 2021. Thereafter, schedules were fixed in May, August and November, 2022, for leading prosecution evidence but no witnesses were produced. Even during the schedule fixed in February, 2023, prosecution failed to produce witnesses. This shows gross indifference on the part of the prosecution to proceed with the trial with expedition. Accordingly, we hold fundamental right to speed trial of the petitioner has been infringed 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 ***Alim Molla***, 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 Sessions Judge, 6th Court, Barasat, North 24-Parganas 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 North 24-Parganas and shall report to the Officer-in-charge, Basirhat 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.)