

05.04.2023
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allowed

CRM(NDPS) No. 663 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chinsurah Police Station Case No. 73 of 2019 dated 01.04.2019 under Sections 20(b)(ii) of the NDPS Act.

And

In Re : Kalu Bag petitioner

Mr. Arunava Ganguly

.....for the petitioner

Mr. Saryati Datta

..... for the State

Learned Counsel for the petitioner submits he is in custody for more than three years. It is also submitted there is inordinate delay in trial. He renews his bail prayer.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. By order dated 04.01.2021 in CRR 1877 of 2020 a learned Single Judge of this Court directed consideration of charge on 12.01.2021 or within a week thereof and to conclude the trial by fixing dates at regular intervals for recording evidence. Though charge was framed on 12.01.2021 and a number of schedules were fixed for recording evidence but no prosecution witness has turned up to depose till date. In the meantime petitioner has languished in custody for more than three years. Aforesaid factual matrix persuade us to hold that the fundamental right of the petitioner to speedy trial has been infracted 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 Additional Sessions Judge-cum-Judge, Special Court, Hooghly, subject to condition that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid conditions 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)