

13.04.2023
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allowed

CRM(NDPS) No. 719 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Muchipara Police Station Case No. 73 of 2019 dated 03.05.2019 under Sections 21(c)/29 of the NDPS Act and charge-sheet submitted under Sections 22(c)/22(b)/21(b)/29 of the NDPS Act.

And

In Re : James Kath petitioner

Mr. Angshuman Chakraborty

Mr. S. S. Saha

.....for the petitioner

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

..... for the State

Learned Counsel for the petitioner submits he is in custody for four years. It is also submitted recovery from the possession of the petitioner is below commercial quantity. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits total recovery from the petitioner and the co-accused is above commercial quantity but the co-accused who was HIV positive and had been released on bail has passed away.

We have considered the materials on record. Petitioner is in custody for four years. Initially charge was framed in 2020. After the death of the co-accused it was altered in 2022. No witness has been examined till date.

Keeping in mind the aforesaid circumstances and protracted period of detention suffered by the petitioner, we are of

the opinion his fundamental right to speedy trial has been infringed and he is entitled to bail on this score.

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, Special Court under NDPS Act, City Sessions Court, Calcutta, on further condition that while on bail petitioner shall remain within the Municipal limits of the City of Calcutta except for the purposes of investigation and/or attending court proceeding and shall provide the address where he shall presently reside to the investigating officer and the court below and shall meet the officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders. 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 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)