

18.04.2023
Sl. No.13
akd
[ALLOWED]

C. R. M. (NDPS) 769 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.04.2023 in connection with Mogra Police Station Case No.30 of 2019 dated 31.01.2019 under Section 21(c) of the NDPS Act. (NDPS Case No.01 of 2019)

And

In Re: ***Prasenjit Biswas @ Babu***

... .. Petitioner

Mr. Krishnendu Bhattacharya
Mr. Priyankar Ganguly

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Baisakhi Chatterjee

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.

Learned Advocate for the State opposes the prayer for bail and submits delay in the matter is due to reasons beyond control of the prosecution.

We have considered the materials on record. Though allegation against the petitioner involves recovery of narcotic substance above commercial quantity, progress in the trial is extremely slow. Only three out of twelve witnesses have been examined so far. There is little possibility of the trial concluding in near future. Delay in the matter cannot be attributed to the petitioner. 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 **Prasenjit Biswas @ Babu**, 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, Hooghly 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.

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.)