

25.04.2023.
14.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 858 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.98 of 2020 arising out of Suti P. S. Case No.188 of 2020 dated 15.05.2020 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Abdul Bari @ Barik.

.... Petitioner.

Mr. Arnab Chatterjee,
Ms. Dhanasree Biswas,
Ms. Poulami Bose
Ms. Chandrima Debnath.

...for the Petitioner.

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee.

...for the State.

Petitioner is in custody for about three years. He submits no prosecution witness has been examined as yet. He prays for bail.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity, there is very slow progress in the matter before the trial court. In spite of incarceration for about three years, no prosecution witness has been examined till date. There is no possibility of the prosecution case concluding in the near future. Delay in the matter cannot be attributed to the petitioner.

Under such circumstances, we are inclined to hold fundamental right of the petitioner to speedy justice has been infringed and he is entitled to bail on this score. Bail prayer on

the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Hence, he may be enlarged on bail.

Accordingly, the petitioners viz., Abdul Bari @ Barik shall be released on bail upon furnishing a bond of Rs.10,000/- each 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, Berhampore, Murshidabad subject to condition that he 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.

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

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)