

08.05.2023.
08.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 927 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.55 of 2018 arising out of NCB Crime No.48/NCB/KOL/2018 dated 17.09.2018 under Sections 8(C) read with Sections 20(b)(ii)(c)/29 of the NDPS Act and charge sheet submitted under Sections 20(b)(ii)(c) of the NDPS Act.

In the matter of : Babu Seikh @ Kalu Sekh.

.... Petitioner.

Mr. Arnab Chatterjee,
Mr. Anisur Rahman.

...for the Petitioner.

Mr. Anirban Mitra,
Mr. Pralay Bhattacharya.

...for the NCB.

Petitioner is in custody for four years and seven months.

He submits there is slow progress in trial. He prays for bail.

Learned Advocate for the NCB opposes the bail prayer. He submits trial is in progress. One witness has been partly examined.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity i.e. 22.150 kgs. of ganja from the petitioner. Progress in trial is not appreciable. Petitioner has suffered incarceration for four years and seven months and only one witness has been partly examined. Delay in the matter cannot be attributed to the petitioner. Prosecution proposes to examine eight witnesses and there is little possibility of trial concluding in the near future.

Under such circumstances, we are of the opinion fundamental right of the petitioner to speedy trial 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 petitioner viz Babu Seikh @ Kalu Sekh 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 the NDPS Act-cum-Additional District Judge, 3rd Court, Purba Burdwan 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.)