

15.05.2023
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 934 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.04.2023 in connection with NDPS Case No.61/2018 registered as ST:- 6(11)2021 arising out of NCB Crime No. 28/NCB/KOL/2018 under Sections 22(c)/29 of the NDPS Act.

And

In Re: ***Mubashir Anan***

... .. Petitioner

Mr. Anirban Chakraborty

... .. for the petitioner

Mr. Arun Kumar Maiti

Mr. Sagar Saha

... .. for the NCB

It is submitted on behalf of the petitioner that he is in custody for about four years and nine months. It is further submitted there is slow progress in trial. Accordingly, he renews his prayer for bail.

Learned Advocate for the NCB on instruction submits trial is in progress and four witnesses have been examined.

We have considered the materials on record. Bail prayer of the petitioner was rejected on merits earlier. However, he has approached this court again on the ground of delay in trial. Though he is incarcerated for about four years and nine months, only four witnesses have been examined till date. There is little possibility of trial concluding in the 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 ***Mubashir Anan***, 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, 4th Court, Alipore, South 24-Parganas 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.)