

15.05.2023
Sl. No.12
akd
[ALLOWED]

C. R. M. (NDPS) 935 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.05.2023 in connection with NCB Crime No. 51/NCB/KOL/2018 under Sections 8(c)/20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.35 of 2018)

And

In Re: ***Md. Washim***

... .. Petitioner

Mr. Subhajit Chowdhury

... .. for the petitioner

Mr. Arun Kumar Maiti

Mr. Sagar Saha

Ms. Manasi Mukherjee

... .. for the NCB

Leave is granted to the learned Advocate-on-record for the petitioner to correct the cause title in course of the day.

It is submitted on behalf of the petitioner that he is in custody for about four years and one month. It is further submitted no narcotics was recovered from his possession. Accordingly, he renews his prayer for bail.

Learned Advocate for the NCB opposes the prayer for bail and submits Call Detail Records (CDRs.) show telephonic conversations between the petitioner and co-accused from whom 4.1 kgs. of *charas* was recovered. One witness has been examined.

We have considered the materials on record. No narcotics was recovered from the possession of the petitioner. Though he is in custody for more than four years, only one witness has been examined till date. Progress in trial is not appreciable. 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 **Md. Washim**, 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, Bench-I, City Sessions Court, Calcutta 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.)