

10.05.2023
Sl. No.21
akd
[ALLOWED]

C. R. M. (NDPS) 946 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.05.2023 in connection with Nischinda Police Station Case No.199 of 2018 dated 12.10.2018 under Section 20(b)(ii)(c) of the NDPS Act.

And

In Re: **Sukesh Sarkar @ Chotu**

... .. Petitioner

Mr. Soumya Basu Roy Chowdhury

... .. for the petitioner

Mr. Sanjay Bardhan

Mr. Palash Ch. Majhi

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years and seven months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner has criminal antecedents.

We have considered the materials on record. Though petitioner is in custody for more than four years, charge was framed in August, 2019. Only one out of fifteen witnesses has 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 **Sukesh Sarkar @ Chotu**, 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 District & Sessions Judge, 3rd Court, Howrah 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.)