

16.05.2023

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Allowed

C.R.M. (NDPS) No. 987 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of Chinsurah Police Station Case No. 310 of 2019 dated 19.09.2019 under Sections 20(b)(ii)(c) of the N.D.P.S. Act.

And

In Re : Mithun Mistry petitioner

Mr. Arunava Ganguly

.....for the petitioner

Mrs. Anasuya Sinha

Mr. Pinak Kumar Mitra

.....for the State

Learned Counsel for the petitioner submits he is in custody for more than three years. It is also submitted that there is delay in trial. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits trial is in progress.

We have considered the materials on record. Though petitioner is in custody for a protracted period of time only three witnesses have been examined. Delay cannot be attributed to the petitioner. There is no possibility of trial concluding in the near future. Keeping in mind the aforesaid facts we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and is entitled to bail on such score. Bail prayer on the ground of delay is not fettered by Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner 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 NDPS Act, Hooghly, subject to conditions that 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.

In the event 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.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)