

16.05.2023

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Allowed

C.R.M. (NDPS) No. 991 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of Jorasanko Police Station Case No. 326 of 2016 dated 01.06.2016 under Sections 20(b)(ii)(c) of the N.D.P.S. Act.

And

In Re : Dilip Kumar Dutta petitioner

Mr. Anirban Chakraborty

.....for the petitioner

Mr. R. Roy Chowdhury

Mr. Sandip Chakraborty

.....for the State

Learned Counsel for the petitioner submits he is in custody for about seven years. It is also submitted there is inordinate delay in trial. He renews his bail prayer.

Learned Counsel for the State opposes the prayer for bail and submits six witnesses have already been examined.

We have considered the materials on record. Petitioner has suffered incarceration for about seven years. Delay in the matter cannot be attributed to the petitioner. Keeping in mind the aforesaid fact we are of the opinion fundamental right to speedy trial of the petitioner has been infringed and he 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, Bichar Bhawan, Kolkata, 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.)