

07.06.2023.
01.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1000 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with T. R. Case No.04 of 2018 (NDPS) arising out of NCB Crime No.12/NCB/KOL/2018 dated 27.02.2018 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

In the matter of : Sk. Kausar @ Kalu Sk.

.... Petitioner.

Mr. Santanu Talukdar,
Ms. Pramita Banerjee.

...for the Petitioner.

Mr. Arun Kr. Maity,
Mr. Sagar Saha.

...for the NCB.

Petitioner is in custody for more than five years. He prays for bail on the ground of delay.

Learned Advocate for the NCB has submitted report with regard to delay.

We have considered the materials on record. Some part of the delay is attributable to systemic reasons. But petitioner is not responsible for the same. We also note only one witness is examined in part till date. Prosecution proposes to examine 14 witnesses. Petitioner is languishing in jail for more than five years.

The aforesaid circumstances persuade us to hold fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered by restrictions under

Section 37 of the NDPS Act. Hence, he may be enlarged on bail subject to conditions.

Accordingly, the petitioner viz., Sk. Kausar @ Kalu Sk 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 the NDPS Act, Howrah subject to condition that he 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 and on further condition that the petitioner while on bail shall remain within the district of Howrah and shall provide the address where he shall reside to the Investigating Officer as well as the court below and report to the Officer-in-charge of the Police Station concerned within whose jurisdiction he shall reside once in a week until further orders.

In the event the 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.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

