

19.05.2023

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Allowed

C.R.M. (NDPS) No. 1031 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of Shibpur Police Station Case No. 212 of 2019 dated 15.06.2019 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And

In Re : Md. Shahid Anowar @ Kelo petitioner

Mr. Soumyajit Das Mahapatra
Mr. Soumya Basu Roy Chowdhury
.....for the petitioner

Mr. Madhusudan Sur, learned APP
Mr. Dipankar Paramanick
.....for the State

Learned Counsel for the petitioner submits he is in custody for about four years. It is also submitted there is delay in trial. He prays for bail.

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

We have considered the materials on record. Petitioner is in custody for a protracted period of time due to non-appearance of witnesses. Witness warrant had to be issued. Only five out of thirteen witnesses have been examined. There is little possibility of trial concluding in near future.

Keeping in mind the aforesaid facts 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. Hence, 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, Howrah, 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.)