

05.07.2023
Sl. No.22
akd
[ALLOWED]

C. R. M. (NDPS) 1057 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.05.2023 in connection with Nischinda Police Station Case No.16 of 2019 dated 06.02.2019 under Sections 468/471/472 of the Indian Penal Code and Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Uttam Sarkar***

... .. Petitioner

Mr. Raja Mukherjee

... .. 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. 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 trial is in progress. Six witnesses have already been examined.

We have considered the materials on record. Petitioner is in custody for more than four years. However, only six witnesses have been examined till date. As per charge sheet, prosecution proposes to examine 20 witnesses. There is little possibility of the 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 his 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 ***Uttam Sarkar***, 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 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.)