

05.07.2023.
26.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 1064 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.02 of 2021 arising out of S.T.F.P.S. Case No.01 of 2021 dated 03.01.2021 under Sections 21(c)/22(c)/29 of the NDPS Act.

In the matter of : Maher Ali @ Mahar Ali @ Mohar Ali.
... Petitioner.

Mr. Suman Dey,
Mr. Joy Chakraborty,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh.

...for the State.

Petitioner is in custody for more than two years. He submits there is delay in trial. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits date has been fixed for consideration of charge.

We have considered the materials on record. Statements of witnesses and contemporaneous document i.e. seizure memorandum show recovery of narcotics above commercial quantity i.e. 26.509 kgs. of amphetamine and 2 kgs. of heroin from the petitioner. Delay in the matter is due to systemic reasons and vacancy in the trial court and cannot be attributed to the prosecution. Date has been fixed for consideration of charge.

Under such circumstances and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

We request the trial court to consider the issue of framing of charge at the earliest and in the event, charge is framed to take the proceeding to its logical conclusion by fixing schedule for examination of witnesses at regular intervals.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)