

05.07.2023.
47.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1123 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.151 of 2020 arising out of Sagarpara P.S. Case No.49 of 2020 dated 25.08.2020 under Sections 186/188/34 of the Indian Penal Code and Sections 21/22/23 of the NDPS Act and Section 11(d) of the Prevention of Cruelty to Animal Act.

In the matter of : Tapan Mondal @ Tapan Mandal & Anr.
.... Petitioners.

Mr. Soumyajit Das Mahapatra,
Mr. Tapodip Gupta.

...for the Petitioners.

Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.

...for the State.

Petitioner is in custody for about three years. He submits there is delay in trial. He prays for bail.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record. Though petitioner is in custody for more than three years, only two witnesses have been examined. As per charge sheet, prosecution proposes to examine 16 witnesses and there is little possibility of trial concluding in the near future.

Under such circumstances, we are constrained to hold fundamental right of the petitioner to speedy trial 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.

Accordingly, the petitioners viz. Tapan Mondal @ Tapan Mandal and Hirok Mandal @ Hirak Mondal shall be released on

bail upon furnishing a bond of Rs.10,000/- each 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, Murshidabad at Berhampore subject to condition that they 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 the petitioners fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their 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.)