

14.07.2023
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allowed

CRM(NDPS) No. 1232 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 41/NCB/KOL/2018 dated 05.08.2018 under Sections 8(c) read with Sections 20(b)(ii)(c) of the NDPS Act.

And

In Re : Sk. Saifuddin @ Saifuddin Sekh petitioner

Mr. Joy Chakraborty
Mr. Sandip Dinda
Ms. Ipsita Ghosh

....for the petitioner

Mr. Aru Kumar Maiti (Mohanty)
Mr. Kalidas Saha

.... for the NCB

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

In spite of direction given to the learned Counsel for the NCB in the order dated 07.07.2023 no report has been placed before this Court.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity we note trial has progressed at a very slow pace. Petitioner is in custody for about five years. Possibility of conclusion of trial in near future is bleak. Delay in the matter cannot be attributed to the petitioner. Petitioner has been able to make out a case of infraction of fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground

of delay is not fettered by Section 37 of the NDPS Act. Accordingly, 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 Additional District and Sessions Judge, 4th court at Alipore, South 24 Parganas, on condition that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without 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.)