

11.07.2023
Sl. No.26
akd
[ALLOWED]

C. R. M. (NDPS) 1240 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.07.2023 in connection with Kaliachawk Police Station Case No.293 of 2021 dated 12.03.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.25 of 2021)

And

In Re: **Rafikul @ Kalu Sk.**

... .. Petitioner

Mr. Sandip Chakraborty
Mr. Kaustav Das

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Bibaswan Bhattacharya

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about two years and five months. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. 300 gms. of *Heroin* was recovered from the petitioner. Though he is in custody for about 2½ years, only charge has been framed. None of the prosecution witnesses have been examined as yet. 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 **Rafikul @ Kalu Sk.**, 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 District Judge, 4th Court, Malda 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.)