

18.07.2023
Sl. No.1
akd
[ALLOWED]

C. R. M. (NDPS) 1245 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 Ashokenagar Police Station Case No.369 of 2020 dated 31.05.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Hemanta Biswas @ Hem***

... .. Petitioner

Mr. Susnigdho Bhattacharyya

... .. 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 1150 days. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.

Report is placed on record.

We have considered the materials on record. Petitioner is in custody for more than three years. However, only four witnesses have been examined till date. Prosecution proposes to examine twelve 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 ***Hemanta Biswas @ Hem***, 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, 6th Court, Barasat, North 24-Parganas 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.)