

31.07.2023.
03.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1270 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.35 of 2018 arising out of NCB Crime No.51/NCB/KOL/2018 dated 22.10.2018 under Sections 8(c) read with Sections 20(b)(ii)(c) and 29 of the NDPS Act.

In the matter of : Kurban Md. Jilani Ansari.

.... Petitioner.

Mr. Joy Chakraborty,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Arun Kr. Maity (Mohanty),
Mr. Sagar Saha.

...for the NCB.

Petitioner is in custody for more than four years and nine months. He submits co-accused is on bail. He prays for bail on the ground of inordinate delay.

Learned Advocate for the NCB submits report. He contends delay is not wholly attributed to the prosecution.

We have considered the materials on record. Petitioner has sought bail on the ground of inordinate delay in trial. Though narcotics seized from the joint possession of the petitioner and co-accused is above commercial quantity, we note petitioner is in custody for four years and nine months and only one witness has been examined. There is little possibility of trial concluding in the near future.

We have examined the report. Delay is predominantly on the ground of prosecution and other systemic reasons. Petitioner cannot be held responsible for the same.

In view of the aforesaid facts, we hold fundamental right to speedy trial of the petitioner 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. He may be enlarged on bail. Reference may be made to *Rabi Prakash Vs. The State of Odisha*¹.

Accordingly, the petitioner viz. Kurban Md. Jilani Ansari 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 Judge, Bench-I, NDPS Act, City Sessions Court, Calcutta subject to condition that he 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 petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ SLP (Crl) No.4169 of 2023.