

23.08.2023

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Allowed

C.R.M. (NDPS) No. 1288 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with C-F No. –SI(VII)-54/2018 (AIU) dated 05.06.2018 under Sections 22(C)/23(C) of the N.D.P.S. Act.

And

In Re : Abdul Hamid Mondal petitioner

Mr. Arnab Chatterjee
Mr. Amanul Islam
Mr. Sourav Mukherjee
Ms. Dhanasree Biswas
Ms. Poulami Bose
Mr. Arka Chakraborty

..... for the petitioner

Mr. Bhaskar Prosad Banerjee
Mr. A. Rajyashree
Mr. P. Baidya

.....for Customs Authority

1. Learned Counsel for the petitioner submits he is in custody for more than five years. Inspite of direction given by this Court vide order dated 15.09.2022 to conclude trial within six months trial has not concluded. He renews his bail prayer.

2. Learned Counsel for the Customs Authority submits report. Report be kept on record.

3. We have considered the materials on record. From the report it appears only three witnesses have been examined since September, 2023. Trial court is also overburdened with similar cases. Delay in the matter cannot be attributed to the petitioner. There is little possibility of trial concluding in the

near future. Keeping in mind the aforesaid facts, we are of the opinion further detention of the petitioner is not necessary.

4. Under such circumstances we are constrained to hold fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on such score. Bail prayer on the ground of delay is not fettered by Section 37 of the NDPS Act. Hence, we are inclined to grant bail to the petitioner. Reference may be made ***Rabi Prakash vs. State of Odisha***¹

5. 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 Judge, Special Court under NDPS Act, Barasat, 24 Parganas (North), subject to further condition that while on bail petitioner shall remain within the jurisdiction of District North 24-Parganas and meet the investigating officer once in a month until further orders. 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.

6. In the event 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.

7. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ SLP (Crl.) 4169 of 2023 dated 13th July, 2023

