

27.07.2023
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1315 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.07.2023 in connection with Chinsurah Police Station Case No.203 of 2020 dated 12.07.2020 under Section 20(b)(ii)(c) of the NDPS Act. (NDPS Case No.37 of 2020)

And

In Re: **Sk. Asraf**

... .. Petitioner

Mr. Krishnendu Bhattacharya
Mr. Priyankar Ganguly
Mr. Neelanjana Ghorai

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is inordinate delay in trial. Charge was framed in 2021 but no prosecution witness has been examined till date. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits narcotics i.e. 21.2 kgs. of *Ganja*, which is above commercial quantity was recovered from the petitioner.

We have considered the materials on record. Bail prayer of the petitioner has been canvassed on the ground of inordinate delay in trial. Though charge was framed in 2021, no prosecution witness has been examined as yet.

Learned Advocate for the State strenuously argues that today is the date fixed for recording prosecution evidence. Be that as it may, there is no explanation for the inordinate delay in leading prosecution evidence for more than two years since framing of charge. Petitioner is in custody for more than three years. 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 **Sk. Asraf**, 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, Hooghly 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.)