

01.08.2023.
14.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1336 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No.12 of 2018 under Sections 20(b)(ii)(c)28/29 of the NDPS Act.

In the matter of : Sk. Munna.

.... Petitioner.

Mr. Amal Krishna Samanta.

...for the Petitioner.

Mr. Kallol Mondal,
Mr. Arunava Ganguly.

...for the NCB.

Petitioner is in custody for five years. He submits there is delay in trial. Co-accused are on bail. He prays for bail.

Learned Advocate for the NCB opposes the bail prayer. He submits recovery was made from the possession of the petitioner.

We have considered the materials on record. Bail prayer of co-accused was not considered on merits but on the ground of inordinate delay. Petitioner is in custody for more than five years and stands on the same footing with co-accused on this score. There is little possibility of trial concluding in the near future and the petitioner has not contributed to the delay.

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 in trial is not fettered by restrictions under Section 37 of the NDPS Act. Hence, he may be enlarged on bail.

Accordingly, the petitioner viz. Sk. Munna 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 the NDPS Act, Howrah 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.)