

31.08.2023

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Allowed

C.R.M. (NDPS) No. 1464 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of Gaighata Police Station Case No. 977 of 2021 dated 20.10.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Sadhan Das petitioner

Mr. Mazhar Hossain Chowdhury

Mr. Mobashshara Alam

.....for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and ten months. There is delay in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail.

3. We have considered the materials on record. Though petitioner is in custody for about two years no witness has been examined till date. On a number of dates prosecution has taken adjournments. Delay in the matter cannot be attributed to the petitioner. There is little possibility of trial concluding in the near future.

4. Under such circumstances we are of the opinion 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.

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 Additional Sessions Judge 6th Court, Barasat, North 24 Parganas, subject to conditions that 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.

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.)