

25.09.2023.
06.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1525 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.29 of 2018 arising out of NCB Crime No.36/NCB/KOL/2018 dated 24.07.2018 under Sections 8(c)/22(c)/29 of the NDPS Act.

In the matter of : **Md. Kalu @ Ataur Rahaman.**

.... Petitioner.

Mr. Sandip Chakraborty,
Mr. Koustav Das.

...for the Petitioner.

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee.

...for the NCB.

1. Petitioner is in custody for more than five years. It is contended inspite of direction given by this Court in September, 2022 to complete trial within one year, only three witnesses have been examined. He renews his bail prayer.
2. Learned Advocate for the NCB submits report. He contends trial shall be concluded shortly.
3. We have considered the materials on record. Petitioner is in custody for more than five years. In spite of direction given by this Court in September, 2022 to complete trial preferably within one year only three witnesses have been examined. Delay cannot be attributed to the petitioner.
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 in trial is not fettered under Section 37 of the NDPS Act.

5. Hence, petitioner may be enlarged on bail subject to conditions.

6. Accordingly, the petitioner viz., **Md. Kalu @ Ataur Rahaman** 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-cum Additional District Judge, 4th Court, Malda 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 and on further condition that the petitioner while on bail shall remain within the District of Malda.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)