

05.10.2023

5
sdas
Allowed

C.R.M. (NDPS) No. 1620 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baruipur Police Station Case No. 189 of 2021 dated 30.01.2021 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And
In Re : Saraj Mondal petitioner

Mr. Angshuman Chakraborty
Mr. S. S. Saha
.....for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty
.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and ten months. It is also submitted there is delay in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits trial has already commenced.

3. We have considered the materials on record. Petitioner is in custody for about two years and ten months. Charge was framed on 4th January, 2022 but till date no witness has been examined. In fact deposition of PW 1 had been expunged as he did not appear on the subsequent date. This reflects poorly on the role of the prosecution to ensure speedy and prompt trial. Under such circumstances, we are of the view fundamental right to speedy trial of the petitioner has been infringed 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. Hence, we are inclined to grant bail to the petitioner.

4. 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 District Judge, 4th Court, Alipore, South 24-Parganas subject to condition 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)