

13.10.2023

9  
sdas  
Allowed

C.R.M. (NDPS) No. 1684 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore Police Station Case No. 418 of 2020 dated 07.05.2020 under Section 22(c )/29 of the NDPS Act.

And

In Re : Helal Sekh @ Hellal Sk. .... petitioner

Mr. Tapodip Gupta  
Mr. Suman Bhanja

.....for the petitioner

Mr. Sanjoy Bardhan  
Mr. Palash Chandra Majhi

....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. In spite of direction given by this Court while rejecting bail prayer of the co-accused in CRM(NDPS) 1076 of 2022 to conclude trial within a year from the date fixed for recording evidence prosecution has failed to examine all witnesses. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits five witnesses have been examined.

3. We have considered the materials on record. Petitioner is in custody for a considerable period of time. In spite of direction given by this Court in September, 2022 to complete trial within a year trial has not concluded. Only five witnesses have been examined. Trial Judge was constrained to issue peremptory order for appearance of other witnesses to ensure quick conclusion of trial. This shows lethargic attitude of the

prosecution to conclude trial which has infringed the fundamental right of the petitioner to speedy justice. Accordingly, 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 Judge, Special Court under NDPS Act, Berhampore, Murshidabad, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without 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.)**