

24.11.2023

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Allowed

C.R.M. (NDPS) No. 1694 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Suti Police Station Case No. 127 of 2021 dated 05.04.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Ekkari Lal Das @ Ekkari petitioner

Mr. Dipankar Mandal

Mr. Anisur Rahaman

.....for the petitioner

Mr. Sanjoy Bardhan

Ms. Debjani Dasgupta

.....for the State

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

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

3. We have considered the materials on record. Though allegations against the petitioner is that he is involved in possession of 450 bottles of Phensedyl Syrup containing codeine phosphate above commercial quantity we note trial is progressing at a slow pace. Only six witnesses have been examined. There is little possibility of trial concluding in the near future. 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 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 Judge, Special Court under NDPS Act-cum-ADJ, 5th Court, Murshidabad at Berhampore, 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.)