

16.10.2023

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Allowed

C.R.M. (NDPS) No. 1708 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Basirhat Police Station Case No. 239 of 2021 dated 04.03.2021 under Sections 186/188 of the Indian Penal Code and Sections 21/22 of the NDPS Act and Section 12 of the Passport Act and Section 25 of the Arms Act.

And

In Re : Rabiul Molla @ Rabual Molla petitioner

Mr. Mazhar Hossain Chowdhury

Mr. Tapodip Gupta

.....for the petitioner

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

Mr. Palash Chandra Majhi

....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and five months. It is also submitted that 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 two years and five months, only three out of twelve witnesses have been examined. Delay in the matter cannot be attributed to the prosecution. There is little possibility of the trial concluding in the near future and petitioner is entitled to bail on the score of delay. 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, North 24-Parganas at Barasat, 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.)