

20.11.2023.
06.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1756 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection Special Case No.143 of 2021 arising out of Kaliachak P. S. Case No.1419 of 2021 dated 20.12.2021 under Section 21(C)/27A/29 of the NDPS Act read with Section 27A of Drugs & Cosmetic Act.

In the matter of : **Rubel Hossain.**

.... Petitioner.

Mr. Musharraf Alam Sk,
Mr. Sujoy Sarkar,
Ms. Susmita Ghorai.

...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Mr. Bibaswan Bhattacharya.

...for the State.

1. Petitioner is in custody for about two years. He submits charge has not been framed. He prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits co-accused had absconded resulting in delay.
3. We have considered the materials on record. Petitioner is in custody for about two years. Charge has not yet been framed. It is contended co-accused had absconded resulting in delay. Petitioner does not have control over the co-accused and we find prompt steps for their apprehension have not been taken.
4. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on

this score. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

5. Accordingly, the petitioner viz., **Rubel Hossain** 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, 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.

6. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)