

28.11.2023

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Allowed

C.R.M. (NDPS) No. 1854 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Liluah Police Station Case No. 284 of 2018 dated 30.08.2018 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re : Jagannath Pal petitioner

Sk. Toslim Ali

.....for the petitioner

Mr. A. Ganguly

Mr. S. Ghosh

Mr. Bitasok Banerjee

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than five years. It is also submitted there is inordinate delay in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits trial is in progress. Twelve witnesses have been examined.

3. We have considered the materials on record. Petitioner is in custody for a considerable period of time. Though number of witnesses have been examined keeping in mind total number of prosecution witnesses we are of the opinion 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, Howrah, subject to condition that the 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.)