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Allowed

C.R.M. (NDPS) No. 1898 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Excise, Sealdah, under Barrackpore Excise Division Seizure List No. 8 of 2021 dated 27.07.2021 under Sections 8/20(b)(ii)(c)/29 of the N.D.P.S. Act.

In Re : Rabi Shaw

And
..... petitioner

Mr. Debasis Kar
Mr. Husen Mustafi
.....for the petitioner

Mr. Bitasok Banerjeefor the State

1. Learned Counsel for the petitioner submits he is in custody for two years. It is also submitted there is slow progress in trial. He renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail and submits delay is due to abscondence of the co-accused.

3. We have considered the materials on record. Though delay appears to be due to abscondence of the co-accused it cannot be said that the petitioner has contributed to the delay. He is in custody for more than two years and charge has not yet been framed. 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 Additional Chief Judicial Magistrate, Barrackpore, 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.)