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Allowed

C.R.M. (NDPS) No. 1909 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raninagar Police Station Case No. 488 of 2021 dated 23.11.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

In Re : Sunil Mondal And
..... petitioner

Ms. Minoti Gomes
Mr. Jisan Hossain
Ms. Chandrima Debnath
.....for the petitioner

Mr. Aniket Mitra

.....for the State

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

2. Learned Counsel for the State opposes the prayer for bail and submits over 640 bottles of Phensedyl Syrup containing codeine phosphate was recovered from the petitioner.

3. We have considered the materials on record. Allegations are grave and prayer for bail on merits would be impeded by the restrictions under Section 37 of the NDPS Act. Petitioner has prayed for bail on the ground of delay in trial. Though he is incarcerated for more than two years charge has not yet been framed. He cannot be responsible for the delay. 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, Berhampore, Murshidabad, 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.)