

01.12.2023

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Allowed

C.R.M. (NDPS) No. 1910 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 255 of 2022 dated 10.03.2022 under Sections 21(c)/27(A)/29 of the N.D.P.S. Act.

And

In Re : Md. Mosaraf Hoque @ Md. Mosaraf Hossain petitioner

Mr. Tapodip Gupta
Mr. Suman Bhanja

.....for the petitioner

Mr. Sandip Chakraborty

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and eight months. It is also submitted there is slow progress in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits trial is in progress. Examination of PW 1 is in progress.

3. We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity we note petitioner is in custody for about two years. Only one witness has been examined in part. Prosecution proposes to examine ten witnesses in all. 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-cum-Additional District Judge, 5th Court at Malda, 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.)