

18.12.2023

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Allowed

C.R.M. (NDPS) No. 1926 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 11/NCB/KOL/2019 dated 05.07.2019 under Sections 8(c) read with Sections 17/18/27A/28/29 of the N.D.P.S. Act.

And

In Re : Birbal Kumar petitioner

Mr. Jaydeep Biswas

Mr. Rajnish Kumar Kalawatia

Mr. Santanu Talukdar

Mr. Kaushik Ghosh

.....for the petitioner

Mr. Himangsu De,

Mr. Sagar Saha

.....for the Union of India

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

2. Learned Counsel for the Union of India opposes the prayer for bail and submits report with regard to the status of the trial.

3. We have considered the materials on record including the report filed on behalf of the prosecution. Only one witness has been examined in full and another witness has been examined in part. There is little possibility of trial concluding in the near future. Petitioner has already undergone detention for more than four years. 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 3rd Additional District Judge, Special Court under NDPS Act, Purba Bardhaman, 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.)