

18.12.2023

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Allowed

C.R.M. (NDPS) No. 1941 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda Police Station Case No. 85 of 2022 dated 17.04.2022 under Sections 21(c)/22(c)/29 of the N.D.P.S. Act.

And

In Re : Ketab Malitha @ Sentu petitioner

Mr. S. A. Munshi

Mr. Asif Iqbal

.....for the petitioner

Mr. Debasish Roy, learned PP

Mr. Navanil De

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than one year and eight months. It is also submitted recording of evidence has not commenced as yet. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits charge has been framed and date has been fixed for recording evidence.

3. We have considered the materials on record. Though narcotics above commercial quantity was recovered recording of evidence has not commenced as yet. Prosecution proposes to examine ten witnesses and 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, 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.)