

19.12.2023.
29.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1973 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Panchla P. S. Case No.383 of 2021 dated 25.11.2021 under Section 20(b) of the NDPS Act.

In the matter of : **Badsha Sk. @ Sk. Badsha.**

.... Petitioner.

Mr. Kajal Mukherjee,
Mr. Bikash Chakraborty,
Mr. R. Nandy.

...for the Petitioner.

Mr. Debasish Roy, Id. P.P.,
Ms. Sreyashee Biswas.

...for the State.

1. Petitioner is in custody for more than two years. He contends there is delay in trial. He prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends trial is in progress and one witness has been partly examined.
3. We have considered the materials on record. Though petitioner was in custody for more than two years, only one witness has been partly examined. Delay in the matter is not attributable to the petitioner.
4. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

5. Accordingly, the petitioner viz., **Badsha Sk. @ Sk. Badsha** 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 the NDPS Act, Howrah-cum-Additional District and Sessions Judge, 3rd Court subject to condition that he 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.

6. In the event the 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)