

17.01.2023
Sl. No.2
akd
[ALLOWED]

C. R. M. (NDPS) 1531 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.12.2022 in connection with Rishra Police Station Case No.109 of 2019 dated 19.12.2019 under Section 21(c) of the NDPS Act. (NDPS Case No.55 of 2019)

And

In Re: ***Kamal Dev***

... .. Petitioner

Mr. Arunava Ganguly
Mr. Dipayan Kundu

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Baisakhi Chatterjee

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is inordinate delay in the trial.

Report is placed on record. It appears from the report five schedules were fixed but no witnesses have been examined. In some of the schedules, adjournment was due to systemic reasons like vacancy in the trial court. But in other schedules, failure is due to inability of the prosecution to bring witnesses. In no case, the petitioner contributed to the delay.

Keeping in mind the aforesaid facts, we are of the opinion inordinate delay in the trial has infringed the fundamental right of the petitioner to speedy trial under Article 21 of the Constitution of India. Granting of bail on such score is not fettered by restrictions under Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely ***Kamal Dev***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten

thousand only), 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-cum-Additional Sessions Judge, Hooghly subject to condition that the said 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 or commit similar offences in future.

In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)