

03.02.2023

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Allowed

C.R.M. (NDPS) No. 1542 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raninagar Police Station Case No. 673 of 2019 dated 08.12.2019 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Jiarul Sk. petitioner

Ms. Sreyashee Biswas

Ms. Benajir Hasna

Mr. Aliul Islam

.....for the petitioner

Mr. Sudip Ghosh

Mr. Apurba Kumar Datta

.....for the State

Learned Counsel for the petitioner submits petitioner is in custody for more than three years. It is also submitted that there is delay in trial. He prays for bail.

Learned Counsel appearing for the State submits report. From the report it appears date has been fixed for consideration of charge on 15.03.2023.

We have considered the materials on record. Petitioner is in custody for more than three years. We find that the charge has not been framed due to delay in submission of chemical examiner's report. Right to speedy trial is not restricted only to enquiry/ trial. It extends to investigation also. Delay in submission of chemical examiner's report be it account of indifference or infrustructural deficiencies would impinge on the fundamental right to speedy justice of undertrials. These

circumstances portray violation of the fundamental right of the petitioner to speedy trial enshrined under Article 21 of the Constitution of India. Under such circumstances, we are inclined to grant bail to him.

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 & Sessions Judge, 2nd court at Berhampore, Murshidabad, subject to conditions 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.

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 in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)