

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

28.02.2023.
04.
as
(Allowed)

C.R.M. (NDPS) 140 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.30 of 2020 arising out of Kotwali P. S. Case No.335 of 2020 dated 29.05.2020 under Sections 20(ii)(c)/25/29 of the Indian Penal Code.

In the matter of : Sahidul Haque @ Saidul Hoque.

.... Petitioner.

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Ms. Rikta Sarkar.

...for the Petitioner.

Mr. Nilay Chakraborty,
Mr. Tapan Bhattacharjee.

...for the State.

Supplementary affidavit enclosing order sheets of the trial court is placed on record.

Petitioner is in custody for two years and nine months. In spite of direction given by this Court in CRM (DB) 32 of 2022 to frame charge and conclude trial expeditiously, there is hardly any progress in the matter.

Learned Advocate for the State opposes the bail prayer. He submits charge has been framed and trial is in progress.

We have considered the materials on record. Bail prayer of the petitioner was rejected by a Co-ordinate Bench of this Court on 8th March, 2022. Though in terms of the direction of this Court, charge was framed in March, 2022, thereafter no

witnesses have been examined till date. This clearly infracts the fundamental right to speedy trial of the petitioner. He is entitled to bail on this score. Bail prayer on the ground of delay is not fettered restricted under Section 37 of the NDPS Act and he may be enlarged on bail.

Accordingly, the petitioner viz., Sahidul Haque @ Saidul Hoque 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, Jalpaiguri 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.

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.

The application for bail is, thus, disposed of.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)