

01.03.2023

Sl. No.23

akd

[ALLOWED]

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

C. R. M. (NDPS) 218 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.02.2023 in connection with Jalpaiguri Kotwali Police Station Case No.97 of 2020 dated 04.02.2020 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act. (NDPS Case No.07 of 2020)

And

In Re: **Subash Sarkar @ Subhash Sarkar**

... .. Petitioner

Mr. Biswarup Roy

... .. for the petitioner

Mr. Aditi Shankar Chakraborty .. Id. Addl. Public Prosecutor

Mr. Kallol Nag

... .. for the State

Supplementary affidavit enclosing order sheet is placed on record.

It is submitted on behalf of the petitioner that he is in custody for more than three years.

Learned Additional Public Prosecutor opposes the prayer for bail.

We have considered the materials on record. Petitioner is in custody for more than three years. Charge has not yet been framed. There is inordinate delay in trial. Petitioner is not responsible for the delay. Under such circumstances, we are constrained to hold fundamental right to speedy trial of the petitioner has been infringed and he may be enlarged on bail. Bail prayer of the petitioner on this score is not fettered by restrictions under Section 37 of the NDPS Act.

Therefore, the accused/petitioner, namely **Subash Sarkar @ Subhash Sarkar**, 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, 1st Court, Jalpaiguri 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**.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)