

06.03.2023

Sl. No.14
akd
[ALLOWED]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (NDPS) 245 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.03.2023 in connection with NJP Police Station Case No.913 of 2018 dated 16.12.2018 under Sections 20(b)(ii)(c)/23(c)/25 of the NDPS Act. (NDPS Case No.61 of 2018)

And

In Re: ***Arshad Miah @ Arshab***

... .. Petitioner

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

... .. for the petitioner

Mr. Niloy Chakraborty
Mr. Dhiman Sil

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years. Not a single witness has been examined.

Learned Advocate for the State opposes the prayer for bail and submits date has been fixed for examination of witnesses on 28.03.2023.

We have considered the materials on record. Though charge was framed in August, 2019, till date no witness has been examined. Even if one discounts 2020 and 2021 owing to pandemic conditions, there is no explanation for the slow progress in trial in 2022. Petitioner has already suffered incarceration for more than four years.

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 however, subject to strict conditions. 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 **Arshad Miah @ Arshab**, 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 and on further condition that the petitioner, while on bail, shall not leave the jurisdiction of the district of Jalpaiguri except for the purpose of investigation and/or attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.

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.)

