

06.06.2023

Sl. No.34

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[ALLOWED]

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

CRM (NDPS) 350 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kotwali Police Station Case No. 51 of 2019 dated 20.01.2019 under Sections 20(b) of the Narcotic Drugs and Psychotropic Substances Act read with Sections 25/27 of the Arms Act.

And

In Re: ***Probin Barman @ Prabin***

... .. Petitioner

Mr. Biswarup Roy

... .. for the petitioner

Ms. Aditi Shankar Chakraborty, Ld. APP

Mr. Kallol Nag

... .. for the State

Heard the learned Advocates appearing for both the parties.

It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted that there is slow progress in trial. No witnesses have been examined. Accordingly, he prays for bail

Learned advocate for the State opposes the prayer for bail and submits that narcotics substance over commercial quantity has been recovered from the petitioner.

We have considered the materials on record. Petitioner is in custody for more than three years. However, no witnesses have been examined till date. Delay in the matter cannot be attributed to the petitioner. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the

ground of inordinate delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a 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 Additional Sessions and Special Judge, 1st Court, under NDPS Act, at Jalpaiguri, subject to the further conditions that the petitioner while on bail shall remain within the jurisdiction of district Jalpaiguri and shall report to the officer-in-charge of Kotwali Police Station once in a week until further orders and shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/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 automatically without reference to this court.

The application for bail, thus, stands allowed. CRM 349 of 2023 is accordingly disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)

