

08.01.2024.
08.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 15 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.101 of 2020 arising out of Kaliachak P.S. Case No.1042 of 2020 dated 20.12.2020 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Ibrahim Momin.**

.... Petitioner.

Mr. Mrityunjoy Chatterjee.

...for the Petitioner.

Mr. Tanmoy Kr. Ghosh, Id. SGA,
Ms. Pritha Paul.

...for the State.

1. Petitioner is in custody for more than three years. He submits there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for State opposes the bail prayer.
3. We have considered the materials on record. It is alleged 315 gms. of brown sugar i.e. heroin was recovered from the petitioner. Though the allegations involve commercial quantity which attract statutory restrictions in grant of bail on merits, bail prayer has been canvassed on the ground of inordinate delay. Prosecution has examined four out of twelve witnesses in all. There is no possibility of trial concluding in the near future.
4. Under such circumstances, we are of the opinion petitioner has been able to make out a case for bail on the ground of inordinate delay in trial. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

5. Hence, we are inclined to grant bail to the petitioner.
6. Accordingly, the petitioner viz., **Ibrahim Momin** 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, Malda 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.
7. 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.
8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)