

25.01.2024

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Allowed

C.R.M. (NDPS) No. 40 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raninagar Police Station Case No. 79 of 2021 dated 16.02.2021 under Sections 21(c)/20(b)/29 of the N.D.P.S. Act.

And

In Re : Masidul Sk. @ Seikh petitioner

Mr. Arnab Chatterjee

Mr. Anisur Rahaman

.....for the petitioner

Mr. Bitasok Banerjee

.....for the State

1. Supplementary affidavit enclosing ordersheet be placed on record.

2. Learned Counsel for the petitioner submits he is in custody for two years and eleven months. It is also submitted there is slow progress in trial. Accordingly, he prays for bail.

3. Learned Counsel for the State opposes the prayer for bail and submits bail prayer of the petitioner was rejected earlier in March, 2023 and thereafter charge has been framed.

4. We have considered the materials on record. Allegations involve recovery of 2399 bottles of Phensedyl Syrup and 3.8 kgs. of Ganja from the petitioner. However, prayer for bail was rejected earlier in March, 2023. Direction was given to proceed with the trial with expedition. Presently bail prayer of the petitioner has been made on the ground of delay in trial.

Learned Counsel for the State submits charge has been framed in August, 2023 but no witness has been examined till now. Prosecution proposes to examine 18 witnesses. There is little possibility of trial concluding in near future. 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 for bail on the ground of inordinate delay in trial. Bail prayer of the petitioner on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioner.

5. Accordingly, we direct that the petitioner 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 NDPS Act-cum-learned Additional Judge, 2nd Court, Murshidabad at Berhampore, subject to conditions 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.

6. In the event 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.

7. The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

