

15.01.2024.

16.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 77 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N-49 of 2021 arising out of Bizpur P.S. Case No.300 of 2021 dated 06.07.2021 under Sections 20(b)(ii)/29 of the NDPS Act.

In the matter of : **Sattar Ali Sarkar.**

.... Petitioner.

Mr. Debasis Kar.

...for the Petitioner.

Mr. Iqbal Kabir.

...for the State.

1. Petitioner is in custody for two years and four months. He submits there is delay in trial. Accordingly, he renews his bail prayer.

2. Learned Advocate for State opposes the bail prayer. He contends bail prayer of the petitioner was rejected in June, 2023. Thereafter, one witness has been examined. In all four witnesses have been examined.

3. We have considered the materials on record. Allegations involve recovery of 21.8 kgs. of ganja which is above commercial quantity. Bail prayer of the petitioner was rejected on merits in June, 2023. Thereafter, only one witness has been examined. Prosecution proposes to examine 10 witnesses in all. There is little possibility of trial concluding in the near future.

4. Keeping in mind the period of detention suffered by the petitioner and the slow progress in the matter, 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 **Sattar Ali Sarkar** 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, Barrackpore, North 24-Paraganas 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.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)