

22.01.2024.
03.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 85 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.14 of 2021 arising out of NCB Crime No.21NCB/KOL/2021 under Sections 8(c) read with Sections 22(C)/29 of the NDPS Act.

In the matter of : **Arun Sharma.**

.... Petitioner.

Mr. Soubhik Mitter,
Mr. Joy Chakraborty,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Krishnendu Bhattacharya,
Mr. Pradyat Saha.

...for the NCB.

1. Petitioner contends he is in custody for two years and six months. No narcotics was recovered from petitioner. In spite of protracted period of detention, no prosecution witness has been examined as yet. Accordingly, he prays for bail.

2. Learned Advocate for NCB opposes the bail prayer. He contends petitioner is a conspirator in dealing in narcotics. He is the owner of the courier firm which was used to transport narcotics. 34 kgs. of tramadol was recovered from co-accused. Statements recorded under Section 67 of NDPS Act implicate the petitioner in the crime. There are also telephonic conversations between petitioner and co-accused from whom narcotics was seized. He contends prosecution proposes to examine six witnesses and the trial shall be completed in the near future.

3. We have considered the materials on record. No narcotics was recovered from the petitioner. He is alleged to be a conspirator. He is the owner of a courier firm. It is the prosecution case that his firm was utilized to transport narcotics. One such dispatch was recovered from the possession of a co-accused to the tune of 34 kgs. of tramadol. His prayer for bail was rejected earlier on merits. Be that as it may, he is in custody for two and half years. In spite of dates being fixed for recording prosecution evidence, no witness turned up. This compelled the trial Judge to issue notice upon the Zonal Director, NCB.

4. Perusal of the order sheets show indifference on the part of the prosecution to lead its evidence. Delay in the matter cannot be attributed to the petitioner.

5. 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.

6. Hence, we are inclined to grant bail to the petitioner subject to conditions.

7. Accordingly, the petitioner viz., **Arun Sharma** 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, City Sessions Court, Calcutta 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 and on further condition that the petitioner while on bail shall remain within the Municipal limits of city of Kolkata and provide the address to the investigating agency and Court below and report to the Intelligence Officer, NCB once in a week until further order.

8. 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.

9. This application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)