

18.01.2024

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Allowed

C.R.M. (NDPS) No. 96 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Durgapur Police Station Case No. 577 of 2021 dated 14.12.2021 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And

In Re : Sk. Saiful @ Sariful petitioner

Mr. Ayan Basu
Sk. Salim
Mr. Sumit Routh

.....for the petitioner

Mr. Aniket Mitra

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and one month. It is also submitted there is delay in trial. He renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail.

3. We have considered the materials on record. Petitioner is in custody for more than two years and one month. One witness has been examined in part. Since rejection of bail by this Court in July, 2023 there is no progress in the matter. This shows indifferent attitude of the prosecution to conduct trial with expedition. 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 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. Hence, we are inclined to grant bail to the petitioner.

4. 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 District and Sessions Judge, 3rd Court, Asansol, Paschim Bardhaman, subject to condition that 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)