

18.01.2024

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Allowed

C.R.M. (NDPS) No. 112 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 717 of 2021 dated 01.10.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Sadar Sk. @ Sadar Ali petitioner

Mr. Tapodip Gupta
Mr. Suman Bhanja

.....for the petitioner

Mr. Tanmoy Kumar Ghosh
Ms. Sima Biswas

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and three months. It is also submitted there is delay in trial. He prays for bail.

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

3. We have considered the materials on record. Four liters of codeine phosphate was recovered from the petitioner and twelve liters was recovered in all. But the petitioner is in custody for two years and three months. Only three out of fourteen witnesses have been examined. Delay in the matter was primarily due to non-submission of chemical examiner's report and 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 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 Judge, 2nd Court, Berhampore, Murshidabad, 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.)