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Allowed

C.R.M. (NDPS) No. 134 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N 13 of 2020 corresponding to F. No. SI (VII)-16/2020(AIU) under Sections 20(b)(ii)(c)/23(c) of the N.D.P.S. Act for the violation of prohibition imposed under Section 8(c) of the NDPS Act.

And

In Re : Karna Bahadur Magar petitioner

Mr. Angshuman Chakraborty

Mr. S. S. Saha

.....for the petitioner

Mr. Uday Sankar Bhattacharya

Mr. Abhradip Maity

Mr. B. Bhattacharya

.....for the Union of India

1. Learned Counsel for the petitioner submits he is in custody for more than four years. It is also submitted there is slow progress in trial. Accordingly, he prays for bail.

2. Learned Counsel for the Customs Department opposes the prayer for bail and submits nine witnesses have been examined. Petitioner is a Nepali citizen. Allegations involved recovery of 7 kgs. of Hashish from the petitioner.

3. We have considered the materials on record. Petitioner has prayed for bail on the ground of inordinate delay in trial. He is in custody for more than four years. Only nine out of fourteen witnesses have been examined. Petitioner is not responsible for the delay. There is little possibility of trial concluding in near future. Keeping in mind the aforesaid facts

and circumstances we are of the opinion petitioner has been able to make out a case of inordinate delay in trial. This infracts fundamental right to speedy trial of the petitioner and he is entitled to bail on this score alone. Bail prayer of the petitioner on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Under such circumstances 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 Session Judge, 6th Court, Barasat, North 24-Parganas, on further condition that petitioner while on bail shall remain within North 24-Parganas and shall provide address where he shall presently reside to the investigating officer and learned court below and he shall report to the Air Customs, Superintendent Air Intelligence Unit, Netaji Subhash Chandra Bose International Airport, Kolkata once in a week until further orders. 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.)