

24.01.2024

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Allowed

C.R.M. (NDPS) No. 149 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Duttapukur Police Station Case No. 1028 of 2018 dated 29.11.2018 under Section 21(c) of the N.D.P.S. Act.

And

In Re : Dipak Sarkar petitioner

Md. Yunush Mondal

Mr. Pronojit Roy

.....for the petitioner

Mr. Ranadeb Sengupta

.....for the State

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 State opposes the prayer for bail and submits trial is in progress. He further submits prayer has been made for compliance of Section 52A of the NDPS Act before the learned Trial Judge.

3. We have considered the materials on record. Amount of narcotics recovered is above commercial quantity but there is inordinate delay in trial. Petitioner has suffered incarceration for more than four years. Prayer has been made for compliance of Section 52A of the NDPS Act. Under such 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. Accordingly, 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 Sessions Judge, 6th Court, Barasat, North 24-Parganas, subject to conditions 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.

7. We direct the learned Trial Judge to take immediate steps for compliance of Section 52A of the NDPS Act and send samples prepared during inventory for FSL examination at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

