

24.01.2024

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Allowed

C.R.M. (NDPS) No. 156 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhagwangola Police Station Case No. 32 of 2021 dated 17.01.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Pentu Sk. @ Pento Sk. petitioner

Mr. Tapodip Gupta

Mr. Suman Bhanja

.....for the petitioner

Ms. Amita Gaur

.....for the State

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

2. Learned Counsel for the State opposes the prayer for bail and submits eight witnesses have already been examined.

3. We have considered the materials on record. Allegations involve recovery of 10 litres of codeine phosphate from the petitioner. Though petitioner is in custody for more than three years only eight out of twelve witnesses have been examined. There is little possibility of trial concluding in near future. Under such circumstances we are of the opinion petitioner has been able to make out a case of inordinate delay in trial. 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 District Judge, 2nd Court, Berhampore, Murshidabad, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)