

24.01.2024

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Allowed

C.R.M. (NDPS) No. 155 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Eco Park Police Station Case No. 145 of 2020 dated 13.08.2020 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Saddam Hossain @ Chaina petitioner

Mr. Anindya Ghosh

Mr. Pronojit Roy

.....for the petitioner

Mr. Avishek Sinha

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for three years and five months. It is also submitted there is slow progress in trial. He renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail and submits co-accused was present on a number of occasions.

3. We have considered the materials on record. Petitioner is in custody for three years and five months. On a number of occasions dates were fixed for examination of witnesses but they did not turn up. Hence, in the light of the aforesaid it cannot be said non-appearance of the co-accused was the sole reason for adjournment of the case. The manner in which trial has been conducted shows little concern and readiness on the part of the prosecution to produce witnesses and proceed with

the trial. Petitioner is not responsible for the delay. 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, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)