

21.02.2024

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Allowed

C.R.M. (NDPS) No. 241 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda Police Station Case No. 244 of 2021 dated 20.10.2021 under Sections 21(c)/22(c)/29 of the N.D.P.S. Act.

And

In Re : Masud Rana Khamaru petitioner

Mr. Tapas Kumar Manna

Mr. Yusuf Ali

Ms. Awindita Majumder

.....for the petitioner

Mr. Ranabir Roychowdhury

Mr. Arabinda Manna

.....for the State

1. Supplementary affidavit filed on behalf of the petitioner is placed on record.

2. Report filed on behalf of the State is placed on record.

3. Learned Counsel for the petitioner submits he is in custody for more than three years. Accordingly, he prays for bail on the ground of delay in trial.

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

5. We have considered the materials on record including the report. Though allegations involve recovery of narcotics above commercial quantity i.e. 30 bottles of phensedyl syrup carried by the petitioner in a motor cycle, we note

petitioner has suffered detention for more than three years and only six witnesses have been examined till date. Prosecution proposes to examine eleven witnesses in all. There is no possibility of conclusion of trial in the near future. Delay in the matter cannot be attributed to the petitioner. 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.

6. 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 Sessions Judge, 5th 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.

7. 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.

8. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

