

21.02.2024

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Allowed

C.R.M. (NDPS) No. 247 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sankrail Police Station Case No. 1444 of 2021 dated 02.12.2021 under Section 20(b)(ii)(c) of the N.D.P.S. Act.

And

In Re : Alok Bihari Shaw @ Alok Bihari
Shaw petitioner

Mr. Tapodip Gupta

Sk. Toslim Ali

Mr. Suman Bhanja

.....for the petitioner

Mr. Dipankar Paramanick

.....for the State

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

2. Learned Counsel for the State opposes the prayer for bail and submits report. Let the report be placed on record.

3. We have considered the materials on record. 71 kgs. of Ganja was recovered from the joint possession of the petitioner and co-accused. On merits bail prayer was rejected in April, 2023. Presently petitioner has prayed for bail on the ground of delay in trial. On earlier date prosecution submitted remaining witnesses shall be examined in the schedule fixed between 12th to 15th February, 2024. To test the bonafides of the prosecution we adjourned hearing of the bail application.

Report placed before us shows no witnesses were produced during the said schedule. This discloses indifferent attitude of the prosecution to proceed with the trial. Petitioner has suffered considerable period of detention. He is not responsible for the delay. There is no possibility of trial concluding in the near future. 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 Sessions Judge, 3rd Court, Howrah, on further condition that petitioner shall stay within the district of Howrah and shall provide address where he shall presently reside to the investigating officer and learned court below and he shall report to the Officer-in-Charge of Sankrail police station 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.)