

08.02.2024

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Allowed

C.R.M. (NDPS) No. 255 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jiaganj Police Station Case No. 124 of 2021 dated 11.08.2021 under Sections 21(c)/29 of the N.D.P.S. Act and charge-sheet submitted under Section 21(c) of the NDPS Act read with Sections 379/411 of the Indian Penal Code.

And

In Re : Dhiraj Das @ Dhiroj Das petitioner

Mr. Somnath Adhikary

.....for the petitioner

Ms. Subhasree Patel

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and six months. It is also submitted there is inordinate delay in trial. Accordingly, he prays for bail.

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

3. We have considered the materials on record. Though narcotics recovered from the petitioner is above commercial quantity i.e. 100 bottles of phensedyl syrup we are of the opinion there is slow progress in trial. Five out of eight witnesses have been examined. Petitioner is not responsible for the delay. There is little possibility of trial concluding in near future. Keeping in mind the aforesaid facts and 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. 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 Judge, 2nd Court, Berhampore, Murshidabad, subject to conditions 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.

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.)