

08.02.2024

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Allowed

C.R.M. (NDPS) No. 257 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gaighata South Police Station Case No. 306 of 2021 dated 08.04.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Sukumar Bairagi alias Sukhamoy petitioner

Mr. Angshuman Chakraborty

Mr. S. S. Saha

.....for the petitioner

Mr. Ashok Das

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years and ten months. It is also submitted there is inordinate delay in trial. It is further submitted a learned Single Judge of this Court in CRR 2906 of 2023 had directed the trial court to fix schedules of three dates once in every sixty days and conclude the trial within a reasonable date. In spite of direction by this Court in CRR 2906 of 2023 only three witnesses have been examined till date. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits trial is in progress.

3. We have considered the materials on record. Though 100 bottles of phensedyl syrup were recovered trial is proceeding at a tardy pace. In spite of direction by this Court in

CRR 2906 of 2023 only three witnesses have been examined till date. Prosecution proposes to examine twelve witnesses in all. Hence, we are of the opinion there is little 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 Sessions Judge, 6th Court, Barasat, North 24 Parganas, 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.)

