

12.8.2024
Ct. No. 6
SL No. 33
SB

C.R.M. (NDPS) 1263 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of B.N.S.S. Act, in connection with **English Bazar** P.S. Case No. 577 of **2023** dated 13.4.2023 under Sections 21(c)/ 29 of the N.D.P.S. Act

And

In the matter of: Jiyaul Seikh @ Jiyol

Mr. Arup Kumar Bhowmick ... for the petitioner

Mr. Kunal Ganguly ... for the State

1. Petitioner is in custody for one year and four months. He submits prosecution failed to produce witness in course of schedule fixed before the Trial Court. Accordingly, he prays for bail on the ground of delay in trial.
2. Learned lawyer for the State opposes the prayer for bail.
3. He submits over 300 gms. of heroin was recovered from the petitioner.
4. We have considered the materials on record. Though narcotics of above commercial quantity has been recovered, prosecution has not exhibited sufficient alacrity to conduct trial. A number of schedules were fixed to examine witnesses but no prosecution witness was examined. This infracts the fundamental right to speedy trial of the petitioner and entitles him bail. Bail prayer of the petitioner on the score of delay is not fettered by the restrictions under Section 37 of the N.D.P.S. Act.
5. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be released on bail.
6. Accordingly we direct petitioner shall be released on bail of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional District Judge 4th Court, Special Court Malda subject to the condition that

the petitioner shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/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 without any further reference to this Court.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)