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Allowed

C.R.M.(NDPS) No. 1807 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gopalnagar Police Station Case No. 273 of 2021 dated 19.05.2021 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Saikat Banerjee ..... petitioner

Mr. Avik Ghatak  
Ms. Afreen Begum

... for the petitioner

Mr. Prasun Kumar Datta, learned APP  
Md. Kutubuddin

... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and eight months. He prays for bail on the ground of delay in trial.

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. Allegations involve recovery of 5 liters of codeine phosphate which was carried in a motor cycle. Petitioner was riding on the motor cycle. However, prayer for bail has been made on the ground of inordinate delay in trial. Though petitioner is in custody for more than two years and eight months prosecution failed to produce witnesses on the dates fixed for recording evidence. Even on 30<sup>th</sup> January, 2024 we are informed no witness has been examined. There is little possibility of trial

concluding in the near future. Accordingly, petitioner has been able to make out a case for bail on the ground of 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.

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, 6<sup>th</sup> Court, Barasat, North 24 Parganas, subject to conditions that he 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 he 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.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**