

02.01.2024.
04.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 2063 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak P.S. Case No.988 of 2021 dated 16.09.2021 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Md. Ismail Momin @ Md. Esrail Momin.**
.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kr. Bhowmick.

...for the Petitioner.

Mr. Ranadeb Sengupta.

...for the State.

1. Petitioner is in custody for two years and four months.

He submits there is delay in trial. He prays for bail.

2. Learned Advocate for State opposes the bail prayer. He contends delay was due to abscondence of co-accused.

3. We have considered the materials on record. 400 gms. of brown sugar was recovered from petitioner. Though petitioner is in custody for about two and half years, only two witnesses have been examined. Delay in the matter cannot be attributed to the petitioner. There is no possibility of trial concluding in the near future.

4. Under such circumstances, we are of the opinion petitioner has been able to make out a case for bail on the ground of inordinate delay in trial. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Md. Ismail Momin @ Md. Esrail Momin** 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 the NDPS Act, Malda subject to condition 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.

7. In the event the 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)