

04.01.2024

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Allowed

C.R.M. (NDPS) No. 2093 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raninagar Police Station Case No. 477 of 2021 dated 13.11.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Aftab Ali @ Attap Ali petitioner

Mr. Tapodip Gupta

.....for the petitioner

Mr. Anand Keshari

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and two months. It is also submitted that there is delay in trial. He renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail and submits four witnesses have been examined after rejection of bail by this Court.

3. We have considered the materials on record. Petitioner is in custody for more than two years. Though four witnesses have been examined prosecution proposes to examine seven witnesses in all. There is no possibility of trial concluding in the near future. Keeping in mind the aforesaid facts, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and is entitled to bail on such score. Bail prayer on the ground of delay is not

fettered by Section 37 of the NDPS Act. Accordingly, 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-Additional District Judge, 2nd Court at Berhampore, Murshidabad, subject to condition 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.)