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C.R.M. (NDPS) No. 02 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nimta Police Station Case No. 930 of 2021 dated 21.12.2021 under Section 20(c) of the N.D.P.S. Act.

And

In Re : Prakash Kishori petitioner

Mr. Debasis Kar

Mr. Arka Tilak Bhadra

.....for the petitioner

Ms. Rituparna De Ghose

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years. It is also submitted that there is slow progress in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits date has been fixed for recording evidence.

3. We have considered the materials on record. Petitioner is in custody for more than two years. No witness has been examined as yet. Perusal of the ordersheet shows witnesses did not turn up in the earlier schedule. This discloses indolence on the part of the prosecution to lead evidence expeditiously while petitioner is incarcerating in jail. Delay in the matter cannot be attributed to the petitioner. 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 Sessions Judge, 1st Court at Barrackpore North 24-Parganas, 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.)