

05.01.2024

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Allowed

C.R.M. (NDPS) No. 3 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jagaddal Police Station Case No. 888 of 2021 dated 01.12.2021 under Section 21(c) of the N.D.P.S. Act.

And

In Re : Arif Akhtar alias Chand petitioner

Mr. Debasis Kar

.....for the petitioner

Mr. Sibaji Kumar Das

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years. Charge has not been framed. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner has criminal antecedents.

3. We have considered the materials on record. Allegations involve possession of 2.2 kgs. of Codeine Mixture. Though allegations are grave and would attract restrictions on bail on merits, petitioner has canvassed his prayer for bail on the ground of delay in trial. He is in custody for more than two years but charge has not yet been framed. 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, 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.)