

08.01.2024.

11.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 18 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak P.S. Case No.383 of 2021 dated 05.04.2021 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Mobarak Sk.**

.... Petitioner.

Mr. Arnab Saha,
Mr. A. Banerjee.

...for the Petitioner.

Mr. S. S. Imam,
Ms. Sujata Das.

...for the State.

1. Petitioner is in custody for two years and nine months. He contends only one witness has been examined till date. There is no possibility of trial concluding in the near future. Accordingly, he renews his bail prayer.

2. Learned Advocate for State opposes the bail prayer. He contends bail prayer of the petitioner was rejected earlier.

3. We have considered the materials on record. It is alleged 262 gms. of. heroin was recovered from petitioner. Though his bail prayer was rejected on merits earlier, presently he has prayed for bail on the ground of delay in trial. Petitioner is suffering incarceration for two years and nine months. But only one witness has been examined till date. It cannot be shown that petitioner contributed to the delay.

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., **Mobarak Sk** 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.)