

13.06.2020.
07.
Ct.No.28
as
(Allowed)

C.R.M. (NDPS) 578 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.01.2020 in connection with Uluberia P. S. Case No.635 of 2015 dated 20.08.2015 under Sections 20(b)(ii)C of the NDPS Act.

In the matter of : Umapada Mondal.

.... Petitioner.

Mr. Soumya Basu Roy Chowdhury.

...for the Petitioners.

Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Petitioner is in custody for over six years. It is submitted there is very slow progress in the trial. Only one witness has been examined till date.

Learned Advocate appearing for the State opposes the prayer for bail and submits narcotic substance above commercial quantity was recovered from the possession of the petitioner. Trial is in progress.

We have considered the materials on record. Statements of witnesses show recovery of narcotic substance above commercial quantity from the possession of the petitioner. However, petitioner prays for bail in view of infraction of fundamental speedy trial under Article 21 of the Constitution of India.

In similar situation, the Hon'ble Apex Court ***in Supreme Court Legal Aid Committee Vs. Union of India***¹ held in the event under trials are in custody for more than five years in a narcotic case, they may be enlarged on bail as an one time measure.

Factual matrix of the present case portray a similar state of affairs and we have no reason to treat the petitioner differently from the manner in which similarly circumstanced accuseds were enlarged on bail as an one time measure in ***Supreme Court Legal Aid Committee*** (Supra).

We are further persuaded to come to such a decision as we do not find anything to show that the petitioner has contributed to the delay.

In view of the aforesaid facts and circumstances of the case, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, to the satisfaction of the learned Judge, Special Court under NDPS Act, Howrah subject to condition that the 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.

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.

¹ (1994) 6 SCC 731

This application for bail is, thus, disposed of.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)