

02.08.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 1311 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.07.2023 in connection with Basirhat Police Station Case No.748 of 2019 dated 31.07.2019 under Section 21(c) of the NDPS Act.

And

In Re: ***Ichhanur Sardar @ Ichanoor Sardar***

... .. Petitioner

Mr. Anindya Ghosh
Mr. Sourav Mukherjee

... .. for the petitioner

Mr. Sanjay Bardhan
Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about four years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.

Report is placed on record. From the report it appears three out six witnesses have been examined.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity, petitioner has suffered detention for about four years. Progress in trial is not appreciable. There is little possibility of the trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground of inordinate delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Reference in this regard may be made to ***Rabi Prakash vs. The State of Odisha***¹.

¹ SLP (CrI) No. 4169 of 2023. Order dated 13.07.2023

Therefore, the accused/petitioner, namely ***Ichanur Sardar @ Ichanoor Sardar*** be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), 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-cum-Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas subject to condition that the said 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 or commit similar offences in future.

In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)