

08.08.2023
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1342 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.07.2023 in connection with Basirhat Police Station Case No.292 of 2020 dated 28.02.2020 under Section 21(c) of the NDPS Act.

And

In Re: ***Golam Rahaman @ Laltu***

... .. Petitioner

Ms. Malashree Ghosh

... .. for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Sandip Chakraborty

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about three years and five months. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.

Report with regard to status of trial is placed on record.

Learned Advocate for the State opposes the prayer for bail and submits three witnesses have been examined.

We have considered the materials on record. Bail prayer of the petitioner was rejected in April, 2021. Thereafter, no witnesses have been examined till date inspite of direction given by this court for expeditious conclusion of trial. The aforesaid facts show that the prosecution was not prompt in examining witnesses inspite of direction given by this court in April, 2021. 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 **Golam Rahaman @ Laltu**, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)