

02.08.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 1346 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.07.2023 in connection with Hariharpara Police Station Case No.124 of 2021 dated 29.03.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.58 of 2021)

And

In Re: ***Dipankar Mondal @ Dipakar Mondal @ Dipu***
... .. Petitioner

Mr. Tapodip Gupta
... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Debjani Dasgupta
... .. for the State

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

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

We have considered the materials on record. Petitioner is in custody for more than two years. Only four witnesses have been examined till date. Prosecution proposes to examine twenty witnesses. There is little possibility of the trial concluding in the near future. Delay in the matter cannot be attributed to the petitioner. 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 (Crl) No. 4169 of 2023. Order dated 13.07.2023

Therefore, the accused/petitioner, namely ***Dipankar Mondal @ Dipakar Mondal @ Dipu***, 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 District Judge, 5th Court, Berhampore, Murshidabad 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.)