

04.08.2023
Sl. No.3
akd
[ALLOWED]

C. R. M. (NDPS) 1357 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.07.2023 in connection with Memari Police Station Case No.416 of 2020 dated 12.09.2020 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Ram Prasad Patra***

... .. Petitioner

Mr. Ramashis Mukherjee

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Baisakhi Chatterjee

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about three years. 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 date has been fixed for recording prosecution evidence.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity i.e. 25.4 kgs. of *Ganja* from the petitioner, he has suffered detention for about three years. Trial has not commenced. Prosecution proposes to examine 23 witnesses. Delay in the matter cannot be attributed to the petitioner. 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.

Therefore, the accused/petitioner, namely ***Ram Prasad Patra***, 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 3rd Court, under the NDPS Act, Purba Burdwan 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.)

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