

04.08.2023
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 1360 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 Kaliachak Police Station Case No.494 of 2020 dated 28.06.2020 under Sections 18(b)/29 of the NDPS Act. (NDPS Case No.50 of 2020)

And

In Re: ***Toufique Ansari @ Toufik***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Sanjay Bardhan
Mr. Palash Ch. Majhi

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than 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 one witness has been examined.

We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity from the petitioner, he has suffered detention for more than three years. Only one witness has been examined till date. 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.

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

Therefore, the accused/petitioner, namely ***Toufique Ansari @ Toufik***, 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, 4th Court, Malda 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.)