

08.08.2023
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 1362 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.07.2023 in connection with Asansol North Police Station Case No.25 of 2021 dated 24.01.2021 under Sections 22(b)(c)/25/29 of the NDPS Act. (NDPS Case No.02 of 2021)

And

In Re: ***Golam Sarwar @ Azhar***

... .. Petitioner

Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chatterjee
Mr. Santanu Maji
Ms. Trisha Rakshit
Mr. Rajashree Tah

... .. 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 2½ 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.

We have considered the materials on record. We have gone through the order sheets of the trial court. Though petitioner is in custody for more than 2½ years, only one witness has been examined in full. Prosecution proposes to examine eleven witnesses. 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 (Crl) No. 4169 of 2023. Order dated 13.07.2023

Therefore, the accused/petitioner, namely **Golam Sarwar @ Azhar**, 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, 3rd Court, Asansol, Paschim Bardhaman 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.)