

22.08.2023.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1423 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.107 of 2019 arising out of Entally P.S. Case No.387 of 2019 dated 15.12.2019 under Sections 20(c)/29 of the NDPS Act.

In the matter of : Karuna Sindhu Majhi.

.... Petitioner.

Mr. Anirban Chakraborty.

...for the Petitioner.

Mr. Sudip Ghosh,

Mr. Bitasok Banerjee.

...for the State.

1. Petitioner is in custody for more than three years. He submits there is delay in trial. He prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits delay is not wholly attributable to the prosecution.
3. We have considered the materials on record. Though over 30 kgs. of ganja was recovered from the petitioner and co-accused, trial has progressed at a slow pace. Petitioner is in custody for more than three years. Charge was framed in January, 2023. Thereafter, only three out of thirteen charge sheeted witnesses have been examined. There is little possibility of trial concluding in the near future.
4. Under such circumstances, we are constrained to observe petitioner has made 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.

5. Accordingly, the petitioner viz., Karuna Sindhu Majhi shall be released on bail upon furnishing a bond of Rs.10,000/- 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, 4th Court, Alipore, South 24-Paraganas subject to condition that he 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.

6. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Rai Chattopadhyay, J.)

(Joymalya Bagchi, J.)

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