

06.09.2023
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 1462 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.08.2023 in connection with English Bazar Police Station Case No.1174 of 2020 dated 06.12.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.92 of 2020)

And

In Re: ***Tajel Mia***

... .. Petitioner

Mr. Arnab Saha

... .. for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Mainak Gupta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and eight months. It is further submitted there is delay in trial. Accordingly, he prays for bail.
2. Report is placed on record.
3. We have considered the materials on record. Though the petitioner is in custody for a protracted period of time, prosecution witness did not appear in court. In the report it is contended he had been transferred to a different place. Availability of video linkage gives convenient access to public witnesses who have been transferred to a different place. No such effort was made to examine the witness through such process. 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.

4. Therefore, the accused/petitioner, namely ***Tajel Mia***, 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, 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.
5. 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.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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