

18.09.2023
Sl. No.8
akd
[ALLOWED]

C. R. M. (NDPS) 1470 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.08.2023 in connection with NDPS Case No.254 of 2019 corresponding to NCB Crime No.24/NCB/KOL/2019 under Sections 21(c)/27A/28/29/8(c) of the NDPS Act.

And

In Re: ***Halim Kazi @ Abdul Halim Kazi***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioner

Mr. Arun Kumar Maiti
Mr. Subrata Santra

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about 3½ years. It is further submitted there is inordinate delay in trial. Co-accused have been enlarged on bail. Accordingly, he prays for bail.
2. Learned Advocate for the NCB opposes the prayer for bail and submits petitioner is involved in the conspiracy of transporting a large volume of *phensedyl syrup*. A truck illegally transporting narcotics i.e. 15,000 bottles of *phensedyl syrup* was apprehended. Trial is in progress. Petitioner has criminal antecedents and preventive detention order was passed against him.
3. We have considered the materials on record. Petitioner has suffered incarceration for about 3½ years and trial has progressed at a slow pace. Only one witness has been examined till date. There is little possibility of trial concluding in the near future. Co-accused have been enlarged on bail. It is argued petitioner is the kingpin and does

not stand on the same footing with co-accused who have been enlarged on bail. He also has criminal antecedents.

4. We have taken into consideration these circumstances. Indifference of the prosecution in conducting trial in a prompt manner is palpable. Nothing is placed on record to show petitioner contributed to the delay. Under such circumstances, we are of the opinion he 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. Propensity to commit crime may be addressed by imposing strict restrictions upon him.
5. Therefore, the accused/petitioner, namely ***Halim Kazi @ Abdul Halim Kazi***, be released on bail upon furnishing bond of Rs.50,000/- (Rupees Firth thousand only), with two sureties of Rs.25,000/- each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas 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 and on further condition that the petitioner, while on bail, shall remain within the district of North 24-Parganas and shall report to Mr. Santu Saha, Narcotics Control Bureau (NCB), Kolkata Zonal Unit at Premises No. 04-321, Plot No. DJ-2, Street No. 321, P.O. New Town, Action Area-3, Rajarhat, Kolkata - 700160 once in a week until further orders.

¹ 2023 SCC OnLine SC 1109

6. 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.
7. The application for bail, thus, stands allowed.

(Ajoy Kumar Mukherjee, J.)

(Joymalya Bagchi, J.)