

08.09.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1488 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.08.2023 in connection with South Port Police Station Case No.128 of 2020 dated 16.09.2020 under Section 20(b)(ii)(c) of the NDPS Act. (NDPS Case No.35 of 2020)

And

In Re: **Ganesh Roy**

... .. Petitioner

Mr. Suman Dey
Mr. Joy Chakraborty
Mr. Sandip Dinda

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Debjani Dasgupta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years. It is further submitted there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits one prosecution witness has been examined. The second prosecution witness has been examined in part.
3. We have considered the materials on record. Petitioner is in custody for about three years. Only one witness has been examined in full. The other witness has been examined in part. Prosecution proposes to examine ten witnesses. There is little possibility of trial concluding in the near future. 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 ***Ganesh Roy***, 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, Bench-I, City Sessions Court at Calcutta 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

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