

15.09.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1494 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.09.2023 in connection with Basirhat Police Station Case No.1315 dated 29.12.2020 under Section 21(c) of the NDPS Act.

And

In Re: ***Abdulla Gazi***

... .. Petitioner

Mr. Shekhar Barman
Mr. Rohit Prasad

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 1170 days. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Report is placed on record. From the report it appears that charge was framed on 06.09.2021. Only two out of nine witnesses have been examined.
3. We have considered the materials on record. Petitioner has suffered incarceration for about 1170 days and trial has progressed at a slow pace. Only two out of nine witnesses have been examined till date. 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.

¹ 2023 SCC OnLine SC 1109

4. Therefore, the accused/petitioner, namely **Abdulla Gazi**, 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, 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.
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.)