

18.09.2023
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1496 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 Swarupnagar Police Station Case No.86 of 2020 dated 11.02.2020 under Section 21(c) of the NDPS Act.

And

In Re: **Kayem Gazi**

... .. Petitioner

Mr. Mazhar Hossain Chowdhury
... .. 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 three years and seven months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Advocate for the State opposes the prayer for bail and submits four witnesses have already been examined.
4. We have considered the materials on record. Petitioner has suffered incarceration for about three years and seven months and trial has progressed at a slow pace. Only four 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.

5. Therefore, the accused/petitioner, namely ***Kayem 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.
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.)

¹ 2023 SCC OnLine SC 1109