

13.09.2023
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1511 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.09.2023 in connection with Rejinagar Police Station Case No.120 of 2020 dated 07.05.2020 under Section 21(c) of the NDPS Act. (NDPS Case No.135 of 2020)

And

In Re: **Anisur Rahaman**

... .. Petitioner

Mr. Ali Ahsan Alamgir
Ms. Soma Mal
Ms. Rabia Khatoon

... .. for the petitioner

Mr. Sudip Ghosh
Mr. Koushik Kundu

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits six witnesses have already been examined.
3. We have considered the materials on record. Two bags containing 92 bottles of *phensedyl syrup* were recovered. Amount of *codeine phosphate* in the consignment is above commercial quantity. Hence, petitioner may not be entitled to bail on merits.
4. However, we note petitioner has suffered incarceration for more than three years and trial has progressed at a slow pace. Only six out of twelve witnesses have been examined. There is little possibility of trial concluding in the near future. Delay in the matter cannot be attributed to the petitioner. There is no chance of his abscondence. 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 ***Anisur Rahaman***, 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, Murshidabad at Berhampore 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109