

13.09.2023
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 1513 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 Monteswar Police Station Case No.265 of 2020 dated 13.10.2020 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Sarif Mondal @ Rana***

... .. Petitioner

Mr. Uday Sankar Chattopadhyay
Ms. Trisha Rakshit
Ms. Aishwarya Datta

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Baisakhi Chatterjee

... .. 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 delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits seven witnesses have already been examined.
3. We have considered the materials on record. Petitioner has prayed for bail on the ground of delay. Prosecution proposes to examine 23 witnesses. Though petitioner is in custody for about three years, only seven 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.

4. Therefore, the accused/petitioner, namely ***Sarif Mondal @ Rana***, 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 3rd Court under the NDPS Act, Purba Bardhaman 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 2023 SCC OnLine SC 1109