

15.09.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 1530 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.09.2023 in connection with NCB Crime No.07/2019 under Sections 22(c)/8 of the NDPS Act.

And

In Re: ***Samir Mandal @ Satyajit Mandal***

... .. Petitioner

Mr. Angshuman Chakraborty

... .. for the petitioner

Mr. Arun Kumar Maiti

Mr. Mayukh Mukherjee

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted inspite of direction given by this court in January, 2023 to conclude the trial within six months, trial has not come to an end. There is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the NCB opposes the prayer for bail and submits two witnesses have been examined. Date has been fixed for examining the remaining witnesses.
3. We have considered the materials on record. Petitioner is in custody for more than four years. Only two witnesses have been examined till date. In January, 2023 while rejecting the bail prayer of the petitioner, trial Judge was directed to conclude the trial preferably within six months. Though the order was communicated to the trial court, no witness was produced on behalf of the prosecution on several dates. This shows indifference on the part of the prosecution to inject urgency in the trial. Accordingly, we are of the opinion fundamental right to speedy trial of the petitioner has been infringed

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 ***Samir Mandal @ Satyajit Mandal***, 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.)

¹ 2023 SCC OnLine SC 1109