

C. R. M. (NDPS) 1532 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.09.2023 in connection with Ghola Police Station Case No.294 of 2021 dated 08.05.2021 under Section 21(c) of the NDPS Act.

And

In Re: **Raju Adhikary**

... .. Petitioner

Mr. Pradyat Saha

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than two years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits date has been fixed for recording evidence.
3. We have considered the materials on record. Petitioner is in custody for more than two years. No prosecution witness has been examined till date. 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 **Raju Adhikary**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten

¹ 2023 SCC OnLine SC 1109

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 District & Sessions Judge, 1st Court, Barrackpore, 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.)