

04.10.2023

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Allowed

C.R.M. (NDPS) No. 1583 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with STF Police Station Case No. 15 of 2018 dated 08.09.2018 under Sections 22(C)/29 of the N.D.P.S. Act.

And
In Re : Narayan Mondal @ Naran petitioner

Mr. Jisan Hossain
Ms. Chandrima Debnath
.....for the petitioner

Mr. Ranadeb Sengupta
.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than five years. It is also submitted there is little possibility of trial concluding in the near future.

2. Learned Counsel for the State opposes the prayer for bail and submits delay was due to systematic reasons. Trial has already commenced.

3. We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity i.e. 189 gms. of yaba tablets from the joint possession of the petitioner and co-accused there is very slow progress in trial. It is true some delay was caused due to absence of judicial personnel in the trial court but no effort was taken by the prosecution to produce its witnesses and pray for recording their evidence before the learned Judge-in-charge. Petitioner has suffered incarceration for a protracted period. Under such circumstances, we are of the view fundamental right to speedy

trial of the petitioner has been infracted 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. State of Odisha***¹. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge, City Sessions Court, NDPS Act, Calcutta, on further conditions that while on bail petitioner shall remain within the jurisdiction of Malda District except for the purposes of investigation and /or attending court proceeding and shall meet the Officer-in-Charge Malda Police Station once in a week until further orders. 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.

5. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

