

26.09.2023
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 1585 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.09.2023 in connection with Liluah Police Station Case No.284 of 2018 dated 30.08.2018 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Soumen Sardar @ Kala***

... .. Petitioner

Mr. Sanat Kumar Das
Mr. Sujan Chatterjee
Mr. Santanu Das
Mr. S. Sinha

... .. for the petitioner

Mr. Swapan Banerjee
Mr. Suman De

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than five 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 eleven witnesses have already been examined.
3. We have considered the materials on record. Petitioner has suffered incarceration for more than five years and trial has progressed at a slow pace. Eleven witnesses have been examined till date. There is little possibility of trial concluding in the near future. 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 ***Soumen Sardar @ Kala***, 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, 3rd Court, Howrah 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 and on further condition that the petitioner, while on bail, shall not leave the jurisdiction of Chakdah Police Station except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Chakdah Police Station once in a week until further orders.
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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109