

10.10.2023.
05.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1646 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.20 of 2021 arising out of Asansol GRPS 55 of 2021 dated 25.07.2021 under Sections 20(b)(II)(C)/29 of the NDPS Act.

In the matter of : Ganesh Roy @ Lada.

.... Petitioner.

Mr. Uday Sankar Chattopadhyay,
Ms. Trisha Rakshit,
Ms. Rajashree Tah,
Ms. Aishwarya Datta.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.

...for the State

1. Petitioner is in custody for two years and two months.

He submits there is delay in trial. He prays for bail.

2. Learned Advocate for State opposes the prayer for bail.

He submits trial is in progress.

3. We have considered the materials on record. Petitioner is in custody for more than two years. It is true narcotics above commercial quantity was recovered from his possession but trial is progressing at a very slow pace and only one witness out of 13 witness has been examined. There is little possibility of trial concluding in the near future.

4. Under such circumstances, we are constrained to hold the right to speedy trial of the petitioner has been infringed and he is entitled to bail on such 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.

5. Accordingly, the petitioner viz., Ganesh Roy @ Lada 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 Judge, Special Court under the NDPS Act-cum-Additional Sessions Judge, 3rd Court, Asansol, Paschim Bardhaman subject to condition that he 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.

6. In the event the 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109.