

10.10.2023.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1650 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.84 of 2021 arising out of Nimta P.S. Case No.734 of 2021 dated 29.09.2021 under Sections 20(c) of the NDPS Act and charge sheet submitted under Section 21(C) of the NDPS Act.

In the matter of : **Sudip Das @ Laltu.**

.... Petitioner.

Mr. Soumojit Bhatta,
Mr. Suman Chakraborty.

...for the Petitioner.

Mr. Sudip Ghosh,
Mr. Koushik Kundu.

...for the State.

1. Petitioner is in custody for more than two years. He submits there is delay in trial. He prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits three out of nine witnesses have been examined.
3. We have considered the materials on record. Though narcotics recovered is above commercial quantity, progress in trial is not appreciable. Bailable warrants were required to be issued to ensure attendance of the witnesses. In the meantime, petitioner has incarcerated for more than two years.
4. The tardy progress in trial does not inspire confidence that the trial would conclude in the near future. This infracts the fundamental right to speedy trial of the petitioner 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 petitioners viz **Sudip Das @ Laltu** 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, Barrackpore, North 24-Paraganas 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.