

10.10.2023
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 1655 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.09.2023 in connection with Kaliachak Police Station Case No.1190 of 2021 dated 27.10.2021 under Sections 27A/29 of the NDPS Act.

And

In Re: ***Sudarshan Mandal @ Panchu***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

1. Leave is granted to the learned Advocate-on-record for the petitioner to correct the cause title in course of the day.
2. It is submitted on behalf of the petitioner that he is in custody for about two years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
3. Learned Advocate for the State opposes the prayer for bail and submits one witness has already been examined.
4. We have considered the materials on record. Bail prayer of the petitioner was rejected on merits in September, 2022. In spite of lapse of more than a year, only one witness has been examined till date. This shows very poor progress in trial. Delay in the matter cannot be attributed to the petitioner. 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.

5. Therefore, the accused/petitioner, namely ***Sudarshan Mandal @ Panchu***, 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 District Judge, 4th Court, Malda 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109