

10.10.2023
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 1656 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.10.2023 in connection with Asansol (S) Police Station Case No.333 of 2019 dated 20.09.2019 under Sections 20(b)(ii)(c)/27/29 of the NDPS Act. (NDPS Case No.08 of 2019)

And

In Re: ***Hemant Pandey***

... .. Petitioner

Mr. Ayan Basu
Sk. Salim
Mr. Sumit Routh

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Petitioner has suffered incarceration for more than four years. Only one witness has been examined till date. This shows lack of urgency on the part of the prosecution to conclude trial in the near future. 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.

¹ 2023 SCC OnLine SC 1109

4. Therefore, the accused/petitioner, namely **Hemant Pandey**, 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, Asansol, Paschim Bardhaman 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.
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.)