

10.10.2023
Sl. No.18
akd
[ALLOWED]

C. R. M. (NDPS) 1659 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 NDPS Case No.29 of 2020 arising out of C/W North Port Police Station Case No.60 of 2020 dated 07.08.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Kanai Kumar Dutta @ Kanaihya***

... .. Petitioner

Mr. Anirban Chakraborty

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three 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 delay was due to infrequent attendance of the earlier Presiding Officer. Presently, trial is in progress.
3. We have considered the materials on record. Petitioner has suffered incarceration for more than three years. Only one out of six witnesses has been examined till date. There is little possibility of trial concluding 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.

4. Therefore, the accused/petitioner, namely ***Kanai Kumar Dutta @ Kanaihya***, 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, Bench-I, Bichar Bhavan, Kolkata 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.)

¹ 2023 SCC OnLine SC 1109