

18.10.2023
11
sdas
allowed

CRM(NDPS) No. 1718 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Beldanga Police Station Case No. 200 of 2020 dated 18.05.2020 under Section 21(c) of the NDPS Act.

In Re : Sakir Sk. @ Md. Sakir Ali And
..... petitioner

Mr. Arnab Chatterjee
....for the petitioner

Mr. Ranadeb Sengupta
..... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. There is delay in trial. He prays for bail.
2. Learned Counsel for the State opposes the prayer for bail and submits four out of eight witnesses have been examined.
3. We have considered the materials on record. Petitioner has suffered incarceration for a protracted period of time i.e. three years. He is not responsible for the delay. Under such circumstances, we are of the view fundamental right to speedy trial of the petitioner has been infringed 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. State of Odisha***¹. Hence, we are inclined to grant bail to the petitioner.

¹ (2023) SCC Online SC 1109

4. Accordingly, we direct that the petitioner 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 NDPS Act, Berhampore, Murshidabad, subject to the conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever or commit similar offences in future.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)