

17.11.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 1748 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.10.2023 in connection with Kaliachawk Police Station Case No.183 of 2022 dated 16.02.2022 under Sections 29/22(c)/27A of the NDPS Act.

And

In Re: ***Humayun Sk. @ Humayan Sekh***

... .. Petitioner

Mr. Nilanjan Adhikari
Mr. Sourav Mondal

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Bibaswan Bhattacharya

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than 600 days. It is further submitted there is inordinate delay in trial. Petitioner has been falsely implicated in the instant case. He was not present at the place of occurrence. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits bail prayer of the petitioner was rejected in April, 2023. Delay is due to discharge petitions filed by the co-accused.
3. We have considered the materials on record. Petitioner is in custody for more than 600 days. Charge has not been framed till date. Bail prayer of the petitioner was rejected on merits in April, 2023. There is no progress in the matter since rejection of bail by this court. 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. Therefore, the accused/petitioner, namely ***Humayun Sk. @ Humayan Sekh***, 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, 3rd 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 and on further condition that the petitioner, while on bail, shall remain within the jurisdiction of Kaliachak Police Station and shall meet the Officer-in-charge, Kaliachak Police Station once in a week until further orders.
4. 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.
5. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109