

20.12.2023.

01.

Ct.No.28

Sourav

[Allowed]

C.R.M. (NDPS) 1801 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Belghoria P.S. Case No. 658 of 2021 dated 18.09.2021 under Section 21(c) of the NDPS Act.

In the matter of : Afsar Ali @ Absar Ali.

... Petitioner.

Mr. Debasis Kar,
Mr. Husen Mustafi,

...for the Petitioner.

Mr. Subrato Roy.

...for the State.

1. Petitioner is in custody for over two years and three months. He prays for bail on the ground of delay in trial.
2. Report is placed on record. It appears from the report a number of cases are pending against the petitioner but none of the cases relate to possession of narcotics.
3. We have considered the materials on record. Though petitioner is in custody for more than two years no witness has been examined till date. Delay in the matter cannot be attributed to the petitioner. There is no possibility of trial concluding in the near future.
4. Under such circumstances, we are of the opinion fundamental right to speedy trial of the petitioner has been infringed and he is entitled to be released on

bail on such score. Bail prayer on the ground of delay is not fettered by restrictions under section 37 of the NDPS Act.¹

5. Accordingly, 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 the NDPS Act, Barrackpore, North 24 Parganas subject to condition that he 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 the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
7. This application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ See. Rabi Prakash vs. State of Odisha, 2023 SCC OnLine SC 1109