

18.12.2023
Sl. No.12
akd
[ALLOWED]

C. R. M. (NDPS) 1834 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.10.2023 in connection with Sagardighi Police Station Case No.100 of 2022 dated 27.03.2022 under Sections 21(c)/ 29 of the NDPS Act. (NDPS Case No.83 of 2022)

And

In Re: ***Luton Sk.***

... .. Petitioner

Mr. Tapodip Gupta
Mr. Suman Bhanja

... .. for the petitioner

Mr. Arijit Ganguly
Ms. Jonaki Saha

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about one year and eight months. Charge has not been framed as yet. Accordingly, he prays for bail on the ground of delay in trial.
2. Report is submitted on behalf of the State.
3. Learned Advocate for the State submits delay is due to abscondence of co-accused.
4. We have considered the materials on record. Petitioner is in custody for about one year and eight months. Charge has not been framed as yet. Delay is due to abscondence of co-accused. Prompt steps for his apprehension have not been undertaken. There is little possibility of trial concluding in the near future. 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.

5. Therefore, the accused/petitioner, namely ***Luton Sk.***, 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 District Judge, 5th Court, Berhampore, Murshidabad 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109