

30.11.2023
Sl. No.22
akd
[ALLOWED]

C. R. M. (NDPS) 1857 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.11.2023 in connection with Dum Dum Police Station Case No.1018 of 2021 dated 10.09.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Akash Nayak @ Raja Nayak***

... .. Petitioner

Mr. Shibaji Kumar Das

... .. for the petitioner

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than two years. It is further submitted there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits date has been fixed for recording evidence.
3. We have considered the materials on record. Though allegations involve recovery of narcotics i.e. 3.2 ltrs. of *codeine mixture* from the petitioner, no witness has been examined till date. Petitioner cannot be held responsible for the delay. 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 2023 SCC OnLine SC 1109

4. Therefore, the accused/petitioner, namely **Akash Nayak @ Raja Nayak**, 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, Barrackpore, North 24-Parganas 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.)