

C. R. M. (NDPS) 2015 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.11.2023 in connection with English Bazar Police Station Case No.321 of 2021 dated 14.03.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.26 of 2021)

And

In Re: ***Akinur Khatun @ Nur***

... .. Petitioner

Mr. Sagar Saha

... .. for the petitioner

Mr. Sandip Chakraborty

... .. for the State

1. It is submitted on behalf of the petitioner that she is in custody for about two years and eight months. It is further submitted there is inordinate delay in trial. Accordingly, she prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits seven witnesses have been examined.
3. We have considered the materials on record. Though petitioner is in custody for about two years and eight months, only seven witnesses have been examined till date. Prosecution proposes to examine fourteen witnesses in all. There is no 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 her fundamental right to speedy trial and she 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 ***Akinur Khatun @ Nur***, 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, 4th 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.
5. In the event she fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel her bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)