

C. R. M. (NDPS) 2027 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.11.2023 in connection with Kaliachak Police Station Case No.918 of 2021 dated 02.09.2021 under Sections 22(c)/29 of the NDPS Act.

And

In Re: ***Karimul Sk. @ Karim***

... ... Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... ... for the petitioner

Mr. Koushik Kundu

... ... for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and three months. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Though bail prayer of the petitioner was rejected on merits earlier, there is hardly any progress in the matter. He is in custody for over two years. He has not attributed to 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 ***Karimul Sk. @ Karim***, 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, 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.
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.)