

09.01.2024
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 26 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.12.2023 in connection with Matia Police Station Case No.351 dated 22.08.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Mosiuir Rahaman @ Masiur Rahaman @ Sariful @ Masier Rahaman***

... ... Petitioner

Mr. Navanil De
Mr. Rajeshwar Chakraborty
Mr. Srinjan Ghosh
Mr. Subhrajit Dey
Ms. Monami Mukherjee

... ... for the petitioner

Ms. Amita Gaur

... ... for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and four months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits three witnesses have been examined.
3. We have considered the materials on record. Though narcotics above commercial quantity was recovered from the petitioner, he has suffered incarceration for about two years and four months. Three witnesses have been examined till date. Prosecution proposes to examine seven witnesses in all. Delay in the matter cannot be attributed to the petitioner. 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 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.

4. Therefore, the accused/petitioner, namely ***Mosieur Rahaman @ Masiur Rahaman @ Sariful @ Masier Rahaman***, 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 Sessions Judge, 6th Court, Barasat, 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.)

¹ 2023 SCC OnLine SC 1109