

10.01.2024
Sl. No.23
akd
[ALLOWED]

C. R. M. (NDPS) 44 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2024 in connection with Nabagram Police Station Case No.100 of 2020 dated 09.03.2020 under Sections 20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.81 of 2020)

And

In Re: ***Bhopal Singha @ Bhopal Singh***

... .. Petitioner

Mr. Arnab Chatterjee
Ms. Poulami Bose
Ms. Dhanasree Biswas

... .. for the petitioner

Mr. Apurba Kumar Datta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years and ten 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 and submits trial is in progress. Two witnesses have been examined.
3. We have considered the materials on record. Though allegations involve possession of narcotics above commercial quantity and would attract restrictions for grant of bail on merits, petitioner has canvassed his bail on the ground of delay in trial. He is in custody for about three years and ten months. Only two witnesses have been examined till date. Delay in the matter cannot be attributed to the petitioner. Prosecution proposes to examine nine 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 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 ***Bhopal Singha @ Bhopal Singh***, 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 & Sessions Judge, 2nd 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.
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