

15.01.2024
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 72 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 Kaliachak Police Station Case No.803 of 2019 dated 05.12.2019 under Sections 18(b)/29 of the NDPS Act.

And

In Re: ***Rezzak Ali @ Razzak Ali @ Rejak***

... .. Petitioner

Md. Wasim Akram

... .. for the petitioner

Mr. Debabrata Chatterjee
Mrs. Purnima Ghosh

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than four years. 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 four witnesses have already been examined.
3. We have considered the materials on record. Allegations involve recovery of narcotics above commercial quantity i.e. 4.178 kgs. of *opium*. Though the allegations are very serious and attract restrictions for grant of bail on merits under Section 37 of the NDPS Act, bail prayer of the petitioner is canvassed on the ground of inordinate delay in trial. He has suffered incarceration for more than four years. Only four witnesses have been examined till date. Prosecution proposes to examine ten witnesses in all. There is little 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 ***Rezzak Ali @ Razzak Ali @ Rejak***, 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, 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.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109