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Allowed

C.R.M. (NDPS) No. 57 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagdah Police Station Case No. 836 of 2021 dated 03.12.2021 under Section 21(c) of the N.D.P.S. Act.

In Re : Bablu Halder And
..... petitioner

Mr. Angshuman Chakraborty
Mr. S. S. Saha
.....for the petitioner

Mr. Aniket Mitra
.....for the State

1. Heard lawyers for the parties.
2. Report filed by State is kept on record.

2. From the report it appears no witnesses were examined on 12th and 13th February, 2024. It may not be out of place to note the petitioner is in custody for over two years. Hon'ble Apex Court had granted liberty to the petitioner to pray for bail if trial is prolonged. Perusal of the order-sheets including indolence of the prosecuting agency to bring witnesses on 12th and 13th February, 2024 persuade us to hold fundamental right to speedy trial of the petitioner has been infracted and he is entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act as held in ***Rabi Prakash Vs. State of Odisha***¹. Hence, we are inclined to grant bail to the petitioner.

¹ (2023) SCC OnLine SC 1109

3. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-Additional Sessions Judge, 6th Court, Barasat, North 24 Parganas, subject to condition that 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.

4. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

5. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)