

29.01.2024.
10.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 125 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.102 of 2021 arising out of Islampur P.S. Case No.136 of 2021 dated 04.06.2021 under Sections 184/188 of the Indian Penal Code and Sections 20(b)(ii)(C)/29 of the NDPS Act.

In the matter of : **Majhdul Mondal @ Majedur Mandal.**
.... Petitioner.

Mr. Arnab Chatterjee,
Ms. Poulami Bose.

...for the Petitioner.

Mr. Koushik Kundu.

...for the State.

1. Petitioner is in custody for more than two and half years.

Therefore, he prays for bail on the ground of delay in trial.

2. Learned Advocate for the NCB opposes the bail prayer.
He submits five witnesses have already been examined.

3. We have considered the materials on record. Bail prayer of the petitioner was rejected on merits in June, 2022. Thereafter, bail prayer of co-accused was also rejected in July, 2023. Presently, petitioner has prayed for bail on the ground of delay in trial. Petitioner has suffered incarceration for more than two and half years. Only five witnesses have been examined. Prosecution proposes to examine 11 more witnesses as per charge sheet. Keeping in mind the pace at which the prosecution is progressing, there is little possibility of its concluding in the near future. Petitioner is not responsible for the delay.

4. Under such circumstances, we are of the view petitioner has been able to make out a case for bail on the ground of delay in trial. 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.

5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Majhdul Mondal @ Majedur Mandal** 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 the N.D.P.S. Act, Berhampore, Murshidabad subject to condition that he 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.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

