

30.01.2024
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 183 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.01.2024 in connection with Baduria Police Station Case No.536 of 2021 dated 07.09.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Md. Jahangir Mondal***

... .. Petitioner

Mr. Kallol Kumar Basu
Md. Jannat-ul-Firdous

... .. for the petitioner

Mr. Debasish Ray .. Id. Public Prosecutor
Ms. Sreyashee Biswas

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than 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 trial has commenced. One witness has been examined.
3. We have considered the materials on record. Narcotics i.e. 5.2 ltrs. of *codeine mixture*, which is above commercial quantity was recovered from the petitioner. However, he has prayed for bail on the ground of inordinate delay in trial. Though he is in custody for more than two years and four months, only one witness has been examined till date. Prosecution proposes to examine seven more witnesses. Delay in the matter cannot be attributed to the petitioner. 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 ***Md. Jahangir Mondal***, 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 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