

31.01.2024
Sl. No.13
akd
[ALLOWED]

C. R. M. (NDPS) 191 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.01.2024 in connection with Berhampore Police Station Case No.382 of 2021 dated 11.04.2021 under Section 22(c) of the NDPS Act. (NDPS Case No.65 of 2021)

And

In Re: ***Debashis Sarkar***

... .. Petitioner

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

... .. for the petitioner

Mr. Soumik Ganguli

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and seven months. It is further submitted there is inordinate delay in trial.ailable warrants were issued to ensure attendance of witnesses. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Petitioner is in custody for more than two years. There is slow progress in trial.ailable warrants were issued to ensure attendance of witnesses. Only four witnesses have been examined till date. Prosecution proposes to examine five more witnesses. 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 ***Debashis Sarkar***, 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, 5th 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