

13.02.2024.
10.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 202 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.282 of 2021 arising out of Berhampore P. S. Case No.1450 of 2021 dated 17.12.2021 under Sections 21(c)/29 of the NDPS Act and Sections 25(i)(A)/27 of the Arms Act.

In the matter of : **Anikul Islam.**

.... Petitioner.

Mr. Tapodip Gupta.

...for the Petitioner.

Mr. Sujan Chatterjee.

...for the State.

1. Petitioner is in custody for more than two years. He contends there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. In view of the fact that the schedule for examination of witnesses were fixed between 5th to 7th February, 2024, we adjourned the hearing of the bail application.
4. Today, we are informed during the said schedule, no witness had turned up. This exposes the indifferent attitude of the prosecution to conduct trial expeditiously and conclude it at an early date. Petitioner has suffered incarceration for a considerable period of time. Delay in the matter is not attributable to him.

5. Under such circumstances, we are of the opinion 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.

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

7. Accordingly, the petitioner viz., **Anikul Islam** 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.

8. 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.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC OnLine SC 1109

