

09.02.2024
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 214 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 29.01.2024 in connection with Domkal Police Station Case No.363 of 2020 dated 14.07.2020 under Section 21(c) of the NDPS Act. (NDPS Case No.170 of 2020)

And

In Re: ***Hasanur Islam***

... .. Petitioner

Mr. Arnab Chatterjee
Mr. Anisur Rahaman

... .. for the petitioner

Mr. Debasish Ray .. Id. Public Prosecutor
Mr. Navanil De

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years and six months. It is further submitted there is inordinate delay in trial. Inspite of direction given by this court in CRR 4539 of 2023, trial is progressing at a slow pace. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits report.
3. We have considered the materials on record including the report. Though narcotics i.e. 100 bottles of *phensedyl* syrup containing *codeine mixture*, which is above commercial quantity was recovered from the petitioner, it appears there is slow progress in trial. By order dated 05.12.2023 a learned Single Judge of this court in CRR 4539 of 2023 directed schedule of three dates to be fixed in every twenty days and trial be concluded within a reasonable period. Inspite of such direction, no prosecution witnesses turned up during the schedule fixed by the trial court. This shows indifference on the part

of the prosecution to expeditiously conclude trial. Delay in the matter is not attributable to the defence. 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 ***Hasanur Islam***, 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

