

19.02.2024
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 216 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.01.2024 in connection with ST 01(02) 23 arising out of NDPS Case No.30 of 2021 corresponding to NCB Crime No. 19/2021 under Sections 20(b)(ii)(c)/25/29/8(c) of the NDPS Act.

And

In Re: ***Sanoyar Hossan Jamader @ Sanayar Hassan Jamader***
... .. Petitioner

Mr. Shashanka Shekhar Saha
... .. for the petitioner

Mr. Anirban Mitra
Mr. Pralay Bhattacharyya
... .. for the UOI

1. It is submitted on behalf of the petitioner that he is in custody for more than two years and eight months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the UOI opposes the prayer for bail and submits trial is in progress. Next date for recording evidence is fixed on 25.02.2024.
3. We have considered the materials on record. Though narcotics i.e. 25.8 kgs. of *Ganja*, which is above commercial quantity was recovered from the petitioner, he has suffered incarceration for more than two years and eight months. Only one witness has been examined in part till date. Delay in the matter cannot be attributed to the petitioner. 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 ***Sanoyar Hossan Jamader @ Sanayar Hassan Jamader***, 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, 12th Court, Alipore, South 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