

05.02.2024.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 222 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.24 of 2022 arising out of Sagarpara P. S. Case No.10 of 2022 dated 15.01.2022 under Sections 21(c)/29 of the NDPS Act and Sections 25/27 of the Arms Act.

In the matter of : **Hasanurjaman Sarkar @ Hasanur Jaman Sarkar @ Babu.**

.... Petitioner.

Mr. S. Das Mahapatra,
Mr. Tapodip Gupta.

...for the Petitioner.

Ms. Debjani Sahu.

...for the State.

1. Petitioner is in custody for more than two years. He submits there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends trial is in progress and four witnesses have been examined. Next date has been fixed in March, 2024 for examination of remaining witnesses.
3. We have considered the materials on record. Though allegations involve possession of 300 bottles of phensedyl syrup and an improvised gun and ammunitions, we are of the opinion progress in trial is not appreciable. Petitioner is in custody for more than two years and only four witnesses have been examined. Prosecution proposes to examine 13 witnesses. There is little possibility of trial concluding in the course of next schedule or in the near future. Petitioner is not responsible for the delay.

4. 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.

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

6. Accordingly, the petitioner viz., **Hasanurjaman Sarkar @ Hasanur Jaman Sarkar @ Babu** 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.

7. 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.

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

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

