

05.02.2024.  
10.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (NDPS) 223 of 2024**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.256 of 2020 arising out of Beldanga P. S. Case No.469 of 2020 dated 02.11.2020 under Sections 20(b)(ii)(C) of the NDPS Act.

In the matter of : **Abu Taleb Sk @ Abutaleb Sk.**

.... Petitioner.

Mr. S. Das Mahapatra.

...for the Petitioner.

Ms. Faria Hossain,

Ms. Debjani Dasgupta.

...for the State.

1. Petitioner is in custody for more than three years and two months. He submits there is slow progress in trial. Accordingly, he renews his bail prayer.

2. Learned Advocate for the State opposes the bail prayer. He contends bail prayer of the petitioner was rejected earlier on merits in May, 2023. Thereafter, six witnesses have been examined.

3. We have considered the materials on record. Allegations involve recovery of 25.650 kgs. of ganja and the bail prayer of the petitioner was rejected on merits in view of restrictions under Section 37 of the NDPS Act in May, 2023. Thereafter, six witnesses have been examined and prosecution proposes to examine 11 witnesses in all. There is little possibility of trial concluding in the near future. Delay in the matter cannot be attributable to the petitioner.

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***<sup>1</sup>.

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

6. Accordingly, the petitioner viz., **Abu Taleb Sk @ Abutaleb Sk** 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.)**

---

<sup>1</sup> (2023) SCC Online SC 1109

