

13.02.2024.
12.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 235 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.36 of 2021 arising out of Titagarh P. S. Case No.338 of 2021 dated 20.05.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Soyeb Aktar @ Goutam @ Soheb & Anr.**
.... Petitioners.

Mr. Anisur Rahaman.

...for the Petitioners.

Mr. Ranadeb Sengupta.

...for the State.

1. Petitioners are in custody for more than two years. They submit there is slow progress in trial. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record and the report filed on behalf of the State with regard to status of trial. We note inspite of protracted period of detention suffered by the petitioners, none of the prosecution witnesses were appeared during the schedule fixed for trial. This exposes indifference on the part of the prosecution to conduct trial with expedition.
4. Under such circumstances, we are of the opinion petitioners have 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.

¹ (2023) SCC OnLine SC 1109

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

6. Accordingly, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each 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, Barrackpore, North 24-Paraganas subject to condition that they 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 petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)