

06.02.2024.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 233 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N.82 of 2020 arising out of Gobardanga P. S. Case No.66 of 2020 dated 20.03.2020 under Sections 21(C) of the NDPS Act.

In the matter of : **Soumen Sarkar.**

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioner.

Mr. Binay Kr. Panda,
Ms. Rita Datta.

...for the State.

1. Petitioner is in custody for more than three years and ten months. He submits there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. 5.2 ltrs of codeine phosphate was allegedly recovered from the petitioner. However, petitioner is incarcerated in jail for more than three years. In spite of number of schedules being fixed, no prosecution witness has turned up. Delay in the matter is due to indolent conduct of the prosecution.
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.

¹ (2023) SCC OnLine SC 1109

6. Accordingly, the petitioner viz., **Soumen Sarkar** 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, Barasat, North 24-Paraganas 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.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)