

07.02.2024
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 243 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.02.2024 in connection with Bhatpara Police Station Case No.671 of 2021 dated 08.11.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Sahid Ahamad @ Bickey***

... .. Petitioner

Mr. Debasis Kar
Mr. Husen Mustafi
Mr. Subhajit Chowdhury

... .. for the petitioner

Ms. Faria Hossain
Ms. Mousumi Sarkar

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and three months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits two witnesses have been examined since rejection of bail by this court in April, 2023.
3. We have considered the materials on record. Narcotics i.e. 1.5 kgs. of *codeine mixture* was recovered from the petitioner. His bail prayer was rejected on merits by this court in April, 2023. Petitioner is in custody for more than two years. Only two witnesses have been examined till date. Prosecution proposes to examine eight witnesses in all. Delay in the matter cannot be attributed to the petitioner. There is little 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 ***Sahid Ahamad @ Bickey***, 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, Barrackpore, North 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