

07.02.2024
Sl. No.18
akd
[ALLOWED]

C. R. M. (NDPS) 248 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.01.2024 in connection with Howrah GRPS Case No.45 of 2021 dated 09.09.2021 under Section 20(b)(ii)(c) of the NDPS Act.

And

In Re: ***Indrajit Das @ Indrojit Das***

... .. Petitioner

Mr. Tapodip Gupta
Sk. Toslim Ali
Mr. Suman Bhanja

... .. for the petitioner

Mr. Prasun Kumar Dutta .. Id. Addl. Public Prosecutor
Ms. Jonaki Saha

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and four 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 date has been fixed for recording evidence.
3. We have considered the materials on record. Narcotics i.e. 28 kgs. of *Ganja* was recovered from the petitioner and co-accused. His bail prayer was rejected earlier on merits. Petitioner is in custody for a protracted period of time. Only three witnesses have been examined till date. Prosecution proposes to examine thirteen 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 ***Indrajit Das @ Indrojit Das***, 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-cum-Additional District & Sessions Judge, 3rd Court, Howrah 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