

07.02.2024
Sl. No.23
akd
[ALLOWED]

C. R. M. (NDPS) 253 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 Dalkhola Police Station Case No.37 of 2022 dated 25.01.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.09 of 2022)

And

In Re: ***Estab Ali @ Astab Ali***

... .. Petitioner

Md. Nauroz Rahber
Mr. Amit Ranjan Pati
Md. Jawood

... .. for the petitioner

Mr. Koushik Kundu

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years. 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 PW 1 has been partly examined.
3. We have considered the materials on record. Narcotics i.e. 330 gms. of *Heroin* was recovered from the petitioner. His bail prayer was rejected on merits in July, 2023. Thereafter a number of dates were fixed for examination of witnesses. But only one witness has been examined in part. Prosecution proposes to examine eleven witnesses in all. In view of the aforesaid, 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 ***Estab Ali @ Astab Ali***, 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, Raiganj, Uttar Dinajpur 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