

20.02.2024.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 292 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.36 of 2020 arising out of Kaliachak P. S. Case No.395 of 2020 dated 21.05.2020 under Sections 21(C)/27A/29 of the NDPS Act.

In the matter of : **Nasel Sk @ Khan @ Nasel Seikh.**

.... Petitioner.

Ms. Minoti Gomes,
Mr. Mounick Ghosh,
Ms. Dona Sanyal.

...for the Petitioner.

Mr. Debabrata Chatterjee,
Mr. Subrato Roy.

...for the State.

1. Petitioner contends he is in custody for two years and four months. Hon'ble Supreme Court by order dated 13.04.2023 gave liberty to the petitioner to renew his bail prayer if the trial did not progress diligently and was not completed within six months. It is contended till date charge has not been framed.
2. Report is placed on record on behalf of the State disclosing status of the proceeding.
3. We have considered the materials on record. Petitioner is in custody for more than two years. Trial has not commenced till date and date has been fixed for consideration of charge. Delay in the matter cannot be attributed to the petitioner. There is no possibility of trial concluding in the near future.
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.

6. Accordingly, the petitioner viz., **Nasel Sk @ Khan @ Nasel Seikh** 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, Malda 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 fail 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.)

¹ (2023) SCC OnLine SC 1109