

19.02.2024
Sl. No.16
akd
[ALLOWED]

C. R. M. (NDPS) 284 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.02.2024 in connection with Dholahat Police Station Case No.180 of 2022 dated 25.04.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.36 of 2022)

And

In Re: ***Ramjan Gazi***

... .. Petitioner

Mr. Joy Chakraborty
Mr. Sandip Dinda

... .. for the petitioner

Mr. Anowar Hossain
Mr. Santanu Deb Roy

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about one year and ten months. It is further submitted there is delay in trial. Accordingly, he prays for bail.
2. Report is placed on record.
3. We have considered the materials on record. Narcotics i.e. 5 ltrs. of *codeine mixture* was recovered from the petitioner and co-accused. Bail prayer of co-accused viz. Saidul Khan was rejected on merits in July, 2023. Thereafter number of dates were fixed for production of evidence but prosecution failed to do so. Apart from on one day when Presiding Officer was absent, no explanation is forthcoming why prosecution failed to examine witnesses on other dates. In view of the aforesaid circumstances, we are constrained to hold prosecution has been indolent in conducting the trial. Delay in the matter cannot be attributed to the petitioner. There is no 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 ***Ramjan Gazi***, 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, 12th Court, Alipore, South 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