

20.02.2024.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 304 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.132 of 2021 arising out of Berhampore P. S. Case No.681 of 2021 dated 09.07.2021 under Sections 22(c)/29 of the NDPS Act.

In the matter of : **Jinarul Molla @ Sk.**

.... Petitioner.

Mr. Debanshu Ghorai,
Mr. Anisur Rahman.

...for the Petitioner.

Mr. Saryati Datta.

...for the State.

1. Supplementary affidavit is placed on record.
2. Petitioner is in custody for more than two years and seven months. He contends there is delay in trial. He renews his bail prayer.
3. Learned Advocate for the State submits report. He contends nine out of fourteen witnesses have been examined.
4. We have considered the materials on record. Though recovery of narcotics from the petitioner is above commercial quantity, he has suffered detention for more than two years and seven months. Only nine out of fourteen witnesses have been examined. Delay in the matter cannot be attributed to the petitioner. There is no possibility of trial concluding in the near future.
5. 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.

6. Hence, we are inclined to grant bail to the petitioner.

7. Accordingly, the petitioner viz., **Jinarul Molla @ Sk** 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, Berhampore, Murshidabad 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.

8. 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.

9. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC OnLine SC 1109