

01.03.2024

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Allowed

C.R.M. (NDPS) No. 310 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bauria Police Station Case No. 46 of 2021 dated 02.04.2021 under Section 20(b) of the N.D.P.S. Act.

And

In Re : Sumir Pradhan @ Samir Pradhan petitioner

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

.....for the petitioner

Mr. Debabrata Chatterjee
Ms. Trina Mitra

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and eleven months. Only one out of ten witnesses has been examined in part.

2. Learned Counsel for the State opposes the bail prayer.

3. We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity i.e. 20 kgs. of Ganja we note that petitioner is in custody for two years and eleven months. Only one witness out of ten witnesses has been examined in part. There is little possibility of trial concluding in the near future. Petitioner is not responsible for the delay and is entitled to bail on this score. 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 Odisha¹. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner 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 NDPS Act-cum-learned Additional District & Sessions Judge, 3rd Court, Howrah, subject to condition that 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.

5. In the event petitioner fails 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.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109