

C. R. M. (NDPS) 327 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.02.2024 in connection with Bhatpara Police Station Case No.214 of 2021 dated 05.05.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Bali Paswan***

... .. Petitioner

Ms. Tanusree Ghosh

... .. for the petitioner

Mr. Avishek Sinha

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and eleven months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State had earlier assured this court that examination of prosecution witnesses shall be concluded within 15.03.2024. Today it is submitted prosecution witness could not be examined as the Presiding Officer has been transferred.
3. We have considered the materials on record. Though narcotics i.e. 1.3 kgs. of *codeine mixture*, which is above commercial quantity was recovered from the petitioner, he is in custody for a protracted period of time. Vulnerable witnesses have already been examined. Presiding Officer has been transferred and there is no possibility of trial progressing till the new incumbent joins. Delay in the matter is due to systemic reasons.
4. 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 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.

5. Therefore, the accused/petitioner, namely ***Bali Paswan***, 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, Barrackpore, North 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109