

20.02.2024.
21.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 332 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.86 of 2021 arising out of Nimta P. S. Case No.748 of 2021 dated 06.10.2021 under Section 20(c) of the NDPS Act.

In the matter of : **Lokenath Dey @ Loknath @ Hiru.**
.... Petitioner.

Mr. Debasis Kar,
Mr. Arka Tilak Bhadra.
...for the Petitioner.

Ms. Sreyashee Biswas.
...for the State.

1. Petitioner is in custody for more than two years and four months. He submits there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits date has been fixed for consideration of charge.
3. We have considered the materials on record. Petitioner is in custody for a protracted period of time. Though allegations involve recovery of 2.5 ltrs. of codeine mixture which is above commercial quantity, trial has not commenced as yet. Delay in the matter cannot be attributed to the petitioner.
4. Under such circumstances, we are of the opinion petitioners have 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.

¹ (2023) SCC OnLine SC 1109

6. Accordingly, the petitioner viz., **Lokenath Dey @ Loknath @ Hiru** 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, Barrackpore, North 24-Paraganas 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.)