

14.03.2024

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Allowed

C.R.M. (NDPS) No. 339 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 692 of 2021 dated 13.09.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And
In Re : Bipul Haldar petitioner

Ms. Shabana Hasin
Ms. Samima Akter Banu
Ms. Neha Roy
.... for the petitioner

Mr. Prasun Kumar Dutta, learned APP
Ms. Manisha Sharma
.... for the State

1. Report submitted in Court is placed on record.
2. Learned Counsel for the petitioner submits he is in custody for two years and six months. There is slow progress in trial. Accordingly, he prays for bail.
3. Learned Counsel for the State opposes the bail prayer.
4. We have considered the materials on record. Allegations involve recovery of 20 liters of Codeine Phosphate from the petitioner and co-accused. Though petitioner is in custody for more than two and half years there is slow progress in trial. During pendency of the bail application no witnesses were examined in the course of the schedule fixed between 8th March, 2024 to 12th March, 2024. This shows laxity on the part

of the prosecution to proceed with the trial expeditiously. Under such circumstances, petitioner has made 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. Hence, we are inclined to grant bail to the petitioner.

5. 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, 2nd Court, Berhampore, Murshidabad, 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.

6. 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.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

