

22.02.2024

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Allowed

C.R.M.(NDPS) No. 342 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore Police Station Case No. 924 of 2021 dated 25.08.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re : Saidul Sk & Anr. petitioners

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose

... for the petitioners

Mr. Mainak Gupta

... for the State

1. Learned Counsel for the petitioners submits they are in custody for two years and six months. It is also submitted there is inordinate delay in trial. Accordingly, they renew their bail prayer.

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

3. We have considered the materials on record. Bail prayer of the petitioners was rejected earlier on merits. Presently they pray for bail on the ground of delay in trial. Though they are in custody for more than two years and six months, only six witnesses have been examined. Prosecution proposes to examine eleven witnesses. There is no possibility of trial concluding the in the near future. Under such circumstances, we are of the view 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.

4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each 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 Judge, 5th Court, Berhampore, Murshidabad, subject to conditions that they 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 they 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109