

22.02.2024

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Allowed

C.R.M.(NDPS) No. 346 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raninagar Police Station Case No. 420 of 2021 dated 17.09.2021 under Sections 21(c) of the NDPS Act.

And

In Re : Baltu Sk. @ Baltu Sekh @ Boltu Sk. petitioner

Mr. Tapodip Gupta

Mr. Suman Bhanja

... for the petitioners

Ms. Debjani Sahu

... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and five months. It is also submitted there is inordinate delay in trial. Accordingly, he renews his bail prayer.

2. Learned Counsel for the State opposes the prayer for bail and submits bail prayer of the petitioner was rejected earlier on merits in May, 2023. Thereafter trial has commenced.

3. We have considered the materials on record. Bail prayer of the petitioner was rejected earlier on merits in 2023. 2000 pieces of Yaba Tablets were recovered from his possession. Presently he prays for bail on the ground of delay in trial. Though he is in custody for more than two years only one witness has been examined. Delay in the matter is not attributable to the defence. Under such circumstances, we are of the view petitioner has 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 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 Judge, 2nd Court, Berhampore, Murshidabad, subject to conditions 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.

5. 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 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