

22.03.2024
Sl. No.12
akd
[ALLOWED]

C. R. M. (NDPS) 359 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.02.2024 in connection with Dum Dum Police Station Case No.391 of 2022 dated 23.05.2022 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Babai Roy @ Jano***

... .. Petitioner

Mr. Debasis Kar

... .. for the petitioner

Mr. Kaushik Kundu

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about one year and ten months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Chemical examiner's report is placed on record. Report shows presence of *codeine phosphate* in the sample.
3. Learned Advocate for the State opposes the prayer for bail.
4. We have considered the materials on record. Though narcotics i.e. 2.7 kgs. of *codeine phosphate*, which is above commercial quantity was recovered from the petitioner and co-accused, he is in custody for about one year and ten months. Charge is yet to be framed. Prosecution proposes to examine eight witnesses in all. Delay in the matter is due to non-submission of chemical examiner's report. 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 ***Babai Roy @ Jano***, 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