

29.02.2024.
19.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 374 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagnan P. S. Case No.36 of 2022 dated 29.01.2022 under Sections 20(b)(c) of the NDPS Act.

In the matter of : **Sk. Azad @ Antu & Anr.**

.... Petitioners.

Mr. Tapodip Gupta,
Sk. Toslim Ali,
Mr. Suman Bhanja.

...for the Petitioners.

Mr. Ranabir Roy Chowdhury,
Mrs. Pushpita Saha.

...for the State.

1. Heard the learned Advocates for the parties.
2. We have considered the materials on record. Petitioners are in custody for more than two years. Only one out of five witnesses have been examined. There is little possibility of trial concluding in the near future.
3. 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.
4. Hence, we are inclined to grant bail to the petitioners.
5. Accordingly, the petitioners viz., **Sk. Azad @ Antu and Sk. Bapi** 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,

¹ (2023) SCC OnLine SC 1109

Special Court under the N.D.P.S. Act, Howrah subject to condition 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 or commit similar offences in future.

6. In the event petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)