

29.02.2024.
23.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 378 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.289 of 2021 arising out of Bhagwangola P. S. Case No.595 of 2021 dated 21.12.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Hasan Sk @ Hasan Sekh & Anr.**

.... Petitioners.

Mr. Tapodip Gupta,
Mr. Suman Bhanja.

...for the Petitioners.

Mr. Pravash Bhattacharya,
Mr. Sujoy Sarkar.

...for the State.

1. Petitioners are in custody for two years and two months. They submit there is delay in trial. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends charge has already been framed.
3. We have considered the materials on record. Though 60 bottles of phensedyl syrup were recovered, there is delay in trial. No witness has been examined. Delay cannot be attributed to the petitioner.
4. 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.
5. Hence, we are inclined to grant bail to the petitioners.

¹ (2023) SCC OnLine SC 1109

6. Accordingly, the petitioners viz., **Hasan Sk @ Hasan Sekh and sojib Sk @ Sajib Sk.** 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 the N.D.P.S. Act, Berhampore, Murshidabad 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.

7. 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.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)