

01.03.2024

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Allowed

C.R.M. (NDPS) No. 385 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 247 of 2022 dated 08.03.2022 under Sections 22(c)/29 of the N.D.P.S. Act.

And
In Re : Sabib Sk. petitioner

Mr. Arup Kumar Bhowmick
.... for the petitioner

Mr. Dipankar Paramanick
.... for the State

1. Learned Counsel for the petitioner submits petitioner is in custody for about two years. Only two witnesses have been examined. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner has criminal antecedents.

3. It is alleged 55 gms. of Yaba Tablets were recovered from the petitioner. Accordingly, his bail prayer was rejected on merits earlier. Be that as it may, we note progress in trial is not appreciable. Delay in the matter cannot be attributable to the petitioner. Under such circumstances, petitioner has made 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 Odisha¹. Hence, we are inclined to grant bail to the petitioner.

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, 3rd Court, Malda, subject to condition that 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.

5. In the event petitioner 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