

13.03.2024
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 440 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.01.2024 in connection with Jagaddal Police Station Case No.75 of 2022 dated 02.02.2022 under Section 21(c) of the NDPS Act.

And

In Re: **Subrato Sarkar @ Raja**

... .. Petitioner

Mr. Balaram Neogi

... .. for the petitioner

Mr. Iqbal Kabir

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and one month. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Though narcotics i.e. 4.5 kgs. of *codeine mixture*, which is above commercial quantity was recovered from the petitioner, he is in custody for more than two years. Charge has not been framed as yet. Though a part of the delay may be attributed to systemic reasons, it is undeniable prosecution has progressed at a slow pace. Prosecution proposes to examine nine witnesses in all. There is little possibility of trial concluding in the near future. 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.

4. Therefore, the accused/petitioner, namely ***Subrato Sarkar @ Raja***, 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-cum-Additional Sessions Judge, 1st Court, 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.
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 automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109