

01.03.2024.
24.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 401 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.4 of 2021 arising out of Chopra P. S. Case No.6 of 2021 dated 03.01.2021 under Sections 21(c)/22(c) of the NDPS Act.

In the matter of : **Md. Azad.**

.... Petitioner.

Mr. Amit Roy.

...for the Petitioner.

Mr. Debasish Roy, Id. P.P.

...for the State.

1. Petitioner is in custody for more than three years. He contends there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. Though 1.292 kgs. of brown sugar i.e. heroin were recovered, we note petitioner is in custody for more than three years. Only four witnesses have been examined. Petitioner is not responsible for the delay. There is little possibility of trial concluding in the near future.
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 petitioner.

¹ (2023) SCC OnLine SC 1109

6. Accordingly, the petitioners viz., **Md. Azad** 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, Raiganj, Uttar Dinajpur subject to condition that he 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 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.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)