

04.03.2024.
08.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 417 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.150 of 2021 arising out of Hariharpara P. S. Case No.276 of 2021 dated 20.07.2021 under Sections 21(b)(ii)(c) of the NDPS Act.

In the matter of : **Arshin Sk @ Arsin Sk.**

.... Petitioner.

Mr. Arnab Chatterjee,
Mr. Maidul Islam Kayal.

...for the Petitioner.

Mr. Iqbal Kabir.

...for the State.

1. Heard the learned Advocates for the parties.
2. We have considered the materials on record. Petitioner is in custody for two years and seven months. Though quantity of narcotics recovered from petitioner is above commercial quantity, there is little possibility of trial concluding in the course of next schedule or in the near future. Petitioner is not responsible for the delay.
3. Under such circumstances, we are of the opinion petitioner has 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 petitioner.
5. Accordingly, the petitioner viz., **Arshin Sk @ Arsin Sk** shall be released on bail upon furnishing a bond of Rs.10,000/-

¹ 2023 SCC OnLine SC 1109

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 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.

6. 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.

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

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)