

05.03.2024.
29.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 433 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar P. S. Case No.900 of 2021 dated 01.08.2021 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Nabiul Sk.**

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kr. Bhowmick.

...for the Petitioner.

Mr. Arijit Ganguli,
Mr. Santanu Deb Roy.

...for the State.

1. Petitioner is in custody for about two years and seven months. He submits there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends five out of twelve witnesses have been examined.
3. We have considered the materials on record. Though 697 gms of heroin was recovered from petitioner and co-accused, there is slow progress in trial. Only five out of twelve witnesses have been examined. Delay in the matter cannot be attributed to the petitioner.
4. 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.

5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Nabiul Sk** 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 the N.D.P.S. Act, Malda 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.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109