

06.03.2024.

15.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 444 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N. Case No.91 of 2021 arising out of Dum Dum P. S. Case No.1192 of 2021 dated 05.11.2021 under Section 21(c) of the NDPS Act.

In the matter of : **Abu Bakkar Sekh @ Bakka.**

.... Petitioner.

Mr. Debasis Kar,
Mr. Subhojit Chowdhury,
Mr. Arka Tilak Bhadra.

...for the Petitioner.

Mr. Arijit Ganguli,
Mrs. Manasi Roy.

...for the State.

1. Petitioner is in custody for two years and nine months.

He submits there is delay in trial. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer.

He submits trial has commenced and one witness has been examined.

3. We have considered the materials on record. 1.2 kgs. of codeine mixture was recovered from petitioner. His bail prayer had been rejected on merits in February, 2023. Since then there is slow progress in trial and only one witness has been examined. Prosecution proposes to examine 11 witnesses. There is no possibility of trial concluding in the near future.

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., **Abu Bakkar Sekh @ Bakka** 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, Barrackpore, North 24-Paraganas 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

