

08.04.2024.
02.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 458 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N. Case No.38 of 2022 arising out of Minakhan P.S. Case No.563 of 2022 dated 14.03.2022 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Palash Das & Rafikul Mallick @ Malik.**
.... Petitioners.

Mr. Pronojit Roy.
...for the Petitioners.

Mr. Arijit Ganguly.
...for the State.

1. Petitioners are in custody for more than two years. They submit there is inordinate delay in trial. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. Though 5.5 ltrs. of codeine mixture was recovered from the petitioners, they are in custody for more than two years. Prosecution has examined five out of nine witnesses. Delay in the matter is not attributable to the defence. 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

¹ 2023 SCC OnLine 1109

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

6. Accordingly, the petitioners viz., **Palash Das & Rafikul Mallick @ Malik** 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, Barasat, North 24-Paraganas subject to condition that they 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 petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Prasenjit Biswas,J.)

(Joymalya Bagchi, J.)