

12.03.2024

10
sdas
Allowed

C.R.M. (NDPS) No. 473 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with STF Police Station Case No. 02 of 2022 dated 18.01.2022 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And

In Re : Sk. Sajjad @ Sanjay petitioner

Mr. Raja Mukherjee

.... for the petitioner

Mr. Saryati Datta

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years and two months. There is slow progress in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits bail prayer of co-accused, Sk. Jamir was turned down in December, 2022.

3. We have considered the materials on record. 1.992 kgs. of Charas was recovered from the joint possession of the petitioner and Sk. Jamir. Bail prayer of co-accused Sk. Jamir was turned down on merits in December, 2022. Presently, petitioner has prayed for bail on the ground of delay in trial. Though more than one year and four months have lapsed since rejection of bail of Sk. Jamir only one witness has been examined in part. Delay in the matter cannot be attributable to the defence. Prosecution proposes to examine eleven witnesses.

There is no possibility of trial concluding in the near future. Under such circumstances, petitioner has made 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. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner 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 NDPS Act-cum-learned Additional District & Sessions Judge, City Sessions Court, Bichar Bhaban, subject to condition that petitioner 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.

5. 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.

6. The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

