

27.03.2024
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 491 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.02.2024 in connection with Nischinda Police Station Case No.149 of 2021 dated 22.08.2021 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.

And

In Re: ***Ramakant Das***

... .. Petitioner

Ms. Devi Priya Mitra

... .. for the petitioner

Mr. Dipankar Paramanick

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and seven months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Report is filed on behalf of the State.
3. We have considered the materials on record. Allegations involve recovery of narcotics i.e. 109.4 kgs. of *Ganja*, which is above commercial quantity from a vehicle. Petitioner was in the vehicle. His bail prayer had been rejected on merits in September, 2022. Presently petitioner has prayed for bail on the ground of delay in trial. Till date four out of fourteen witnesses have been examined. Delay in the matter cannot be attributed to the petitioner. 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 of breach of his fundamental right to speedy trial and is entitled to bail on this score. Bail prayer on the ground of inordinate delay in trial is not fettered by restrictions under Section

37 of the NDPS Act. Reference in this regard may be made to ***Rabi Prakash vs. The State of Odisha***¹.

5. Therefore, the accused/petitioner, namely ***Ramakant Das***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act, Howrah subject to condition that the said 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 or commit similar offences in future and on further condition that the petitioner, while on bail, shall remain within the district of Howrah and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge, Nischinda Police Station once in a week until further orders.
6. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109