

14.03.2024

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Allowed

C.R.M. (NDPS) No. 498 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Karandighi Police Station Case No. 344 of 2021 dated 19.07.2021 under Sections 21(c) of the N.D.P.S. Act.

And

In Re : Gumani Sekh @ Gumani Sk. petitioner

Mr. Jisan Hossain

Ms. Chandrima Debnath

.... for the petitioner

Mr. Tanmoy Kumar Ghosh

Ms. Manasi Roy

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and seven months. There is inordinate delay in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits trial is in progress.

3. We have considered the materials on record. Though 1.5 liters of Phensedyl Syrup was recovered from the possession of the petitioner he is in custody for a considerable period of time. Only two out of seven witnesses have been examined. Petitioner is not responsible for the delay in trial. There is little 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, Raiganj, Uttar Dinajpur, 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