

14.03.2024

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Allowed

C.R.M. (NDPS) No. 503 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 26 of 2022 dated 20.01.2022 under Sections 21(c)/29 of the N.D.P.S. Act.

And
In Re : Md. Rabiul Islam petitioner

Mr. Tapodip Gupta
.... for the petitioner

Ms. Sonali Das
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and two months. It is also submitted for non-compliance of Section 50 of the NDPS Act. There is delay in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits seven out of fifteen witnesses have been examined.

3. We have considered the materials on record. Though allegations involve recovery of narcotics above commercial quantity i.e. 270 gms. of Heroin petitioner has suffered incarceration for a considerable period of time. Only seven out of fifteen witnesses have been examined. 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-cum-learned Additional District Judge, 2nd Court, at Berhampore, Murshidabad, 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