

19.03.2024.

16.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 517 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.38 of 2022 arising out of Berhampore P. S. Case No.130 of 2022 dated 29.01.2022 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Sonarul Sk.**

.... Petitioner.

Mr. Arnab Chatterjee
Ms Dhanasree Biswas,
Ms. Poulami Bose.

...for the Petitioner.

Md. Anwar Hossain.

...for the State.

1. Petitioner submits he is in custody for more than two years and one month. He submits charge has not yet been framed. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits co-accused had not co-operated with the trial court and was absent.
3. We have considered the materials on record. Allegations involve recovery of 8 ltrs. of codeine mixture from petitioner and co-accused. Petitioner is in custody for more than two years and it is contended charge has not yet been framed. State argues co-accused was absent on a number of dates which resulted in delay.
4. We have gone through the order sheets of the trial court. It is true that co-accused was absent on a couple of dates. But on other dates prosecution failed to take steps and charge

could not be framed. This shows casual attitude on the part of the prosecution to proceed with the case expeditiously. Petitioner is not responsible for the delay.

5. Under such circumstances, we are of the opinion further detention of the petitioner would infract his fundamental right to speedy trial under Article 21 of the Constitution of India. He is entitled to bail on this score. Bail prayer on the ground of 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.

6. Hence, he may be enlarged on bail.

7. Accordingly, the petitioner viz., **Sonarul Sk** 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 the NDPS Act, Berhampore, Murshidabad subject to condition that he 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.

8. In the event the 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109

