

22.03.2024
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Allowed

C.R.M. (NDPS) No. 515 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhatpara Police Station Case No. 261 of 2022 dated 02.04.2022 under Section 21(c) of the N.D.P.S. Act.

And

In Re : Sourav Das @ Manik petitioner

Mr. Sourat Nandy
Mr. Raja Das

.... for the petitioner

Mr. Pravash Bhattacharya
Mr. S. S. Saha

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years. It is also submitted there is inordinate delay in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits report which shows date has been fixed for recording evidence.

3. We have considered the materials on record. Allegations involve recovery of 5.1 kgs. of Codeine Mixture from the possession of the petitioner and co-accused. However, he is in custody for more than two years and no witness has been examined till date. Delay in the matter cannot be attributed to the defence. Under such circumstances, petitioner has made out a case for bail on the ground of delay in trial which infracts fundamental right to speedy justice of the petitioner. 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, Barrackpore, 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109