

19.03.2024.
20.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 521 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.48 of 2022 arising out of Lalgola P. S. Case No.48 of 2022 dated 10.02.2022 under Sections 21(c)/29 of the NDPS Act and charge sheet submitted under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Md. Taslim Sk.**

.... Petitioner.

Ms. Shabana Hasin,
Ms. Neha Roy,
Ms. Samima Akter Banu.

...for the Petitioner.

Mr. Arup Sarkar.

...for the State.

1. Petitioner is in custody for two years and one month. He submits there is slow progress in trial. Accordingly, he renews his bail prayer.
2. Learned Advocate for the State opposes the bail prayer. He submits delay was due to abscondence of co-accused viz., Minarul Sk. Bail prayer of the petitioner was rejected on merits earlier.
3. We have considered the materials on record. Bail prayer of the petitioner was rejected on merits earlier. Trial court was directed to declare the absconding co-accused as proclaimed offender, if his attendance could not be procured inspite of exhaustion of all processes. Police failed to procure the arrest of co-accused till October, 2023. Thereafter, date was fixed for consideration of charge and charge was framed in January,

2024. Date has also been fixed for examination of evidence in May, 2024. Prosecution proposes to examine 17 witnesses. Manner in which trial is progressing does not give an impression that the same would be concluded at an early date. Petitioner has already suffered incarceration for more than two years.

4. 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.

5. Hence, he may be enlarged on bail.

6. Accordingly, the petitioner viz., **Md. Taslim 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.

7. 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.

¹ 2023 SCC OnLine SC 1109

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)