

02.04.2024.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 528 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.102 of 2021 arising out of Bizpur P. S. Case No.583 of 2021 dated 22.11.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Munna Prasad @ Munna Bhagat & Anr.**

.... Petitioners.

Mr. Arunava Ganguly.

...for the Petitioners.

Mr. Bibaswan Bhattacharya.

...for the State.

1. Petitioners are in custody for more than two years. They submit there is slow progress in trial. Accordingly, they pray for bail.
2. Report is placed on record on behalf of the State.
3. We have considered the materials on record. 5 kgs. of codeine mixture was recovered from the joint possession of the petitioners. Their prayer for bail came to be rejected earlier on two occasions. However, they are in custody for more than two years and examination of witnesses have not commenced as yet. Prosecution proposes to examine seven witnesses and there is little possibility of trial concluding in the near future. Petitioners are not responsible for the delay.
4. Under such circumstances, we are of the opinion petitioners have been able to make 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.

5. Hence, we are inclined to grant bail to the petitioners.

6. Accordingly, the petitioners viz., **Munna Prasad @ Munna Bhagat** and **Biswajit Chowdhury @ Raj** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act, Barrackpore, North 24-Paraganas subject to condition that they 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 or commit similar offences in future.

7. In the event petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109