

04.04.2024

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Allowed

C.R.M. (NDPS) No. 532 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 875 of 2022 dated 12.08.2022 under Sections 21(c)/27A/29 of the N.D.P.S. Act.

And

In Re : Alok Kumar Mandal @ Alok Mandal petitioner

Mr. Arup Kumar Bhowmick

.... for the petitioner

Mr. Pravas Bhattacharya

Mr. Anindya Sundar Chatterjee

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and eight months. It is also submitted charge has not been framed. Accordingly, he prays for bail.

2. Learned Counsel for the State submits report. From the report it appears further investigation is on. Forensic analysis of the mobile phone of the co-accused, Devendra Ahuja is awaited.

3. We have considered the materials on record. We note there is little possibility of commencement of trial. Petitioner has suffered detention for a protracted period of time. 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-Additional District Judge, 4th Court, Malda, 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