

22.03.2024

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Allowed

C.R.M. (NDPS) No. 545 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Shalimar GRPS Case No. 11 of 2021 dated 04.08.2021 under Section 20(b)(ii)(c) of the N.D.P.S. Act.

And

In Re : Sanjeet Kumar petitioner

Mr. Tapodip Gupta

Sk. Toslim Ali

Mr. Suman Bhanja

.... for the petitioner

Mr. Atif Ahmed Siddiqui

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and seven months. 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 seven witnesses have been examined.

3. We have considered the materials on record. 34.901 kgs. of Ganja was recovered from the joint possession of the petitioner and co-accused. However, they are in custody for more than two years and seven months. Only seven out of twelve witnesses have been examined. Petitioner is not responsible for the delay. 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 Chief Judicial Magistrate, Howrah, 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