

08.04.2024.
04.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 544 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.185 of 2022 arising out of English Bazar P.S. Case No.1612 of 2022 dated 23.10.2022 under Sections 25/21(c)/27A/29 of the NDPS Act.

In the matter of : **Ali Hossain.**

.... Petitioner.

Mr. Tapodip Gupta.

...for the Petitioner.

Mr. Koushik Kundu.

...for the State.

1. Petitioner is in custody for one and five months. He submits there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits report.
3. We have considered the materials on record. 270 gms. of heroin was recovered from the petitioner but he is in custody for one year and five months. Only charge has been framed. Prosecution proposes to examine 11 witnesses. There is little possibility of trial concluding in the near future.
4. Under such circumstances, we are of the opinion petitioner has 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 petitioner.

6. Accordingly, the petitioner viz., **Ali Hossain** 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 N.D.P.S. Act, Malda 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 or commit similar offences in future.

7. 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.

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

(Prasenjit Biswas,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine 1109