

28.03.2024

9

sdas

Allowed

C.R.M. (NDPS) No. 555 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with STF Police Station Case No. 23 of 2018 dated 13.03.2021 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And

In Re : Amit Santra petitioner

Mr. Joy Chakraborty

Mr. Sandip Dinda

.... for the petitioner

Ms. Sreyashee Biswas

Ms. Madhumita Basak

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for five years and four months. It is also submitted there is inordinate delay in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State submits report. Let the report be kept on record. It is contended by the learned Counsel for the State that delay was due to various factors beyond control of the prosecution.

3. We have considered the materials on record. Allegations involve recovery of 577.84 kgs. of Ganja. Under such circumstances bail prayer of the petitioner on merits would be circumscribed by the restrictions under Section 37 of the NDPS Act. However, petitioner is in custody for more than five years and only one witness has been examined in full and another in part. Trial is progressing at a slow pace. Perusal of

the order-sheet and report submitted show delay was at the behest of the prosecution and other systemic reasons. Under such circumstances contribution of the defence to the delay in trial is minimal. Under such circumstances, petitioner has made out a case for bail on the ground of delay in trial which infracts his fundamental right to speedy justice under Article 21 of the Constitution of India. 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, Bench-I, NDPS Act, City Sessions Court, Calcutta, 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.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

