

02.04.2024.

11.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 566 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Entally P. S. Case No.290 of 2020 dated 04.11.2020 under Sections 20(b)(ii)(C)/29 of the NDPS Act and charge sheet submitted under Sections 20(b)(ii)(C)/29 of the NDPS Ac.

In the matter of : **Nazmi Begum.**

.... Petitioner.

Md. Khairul.

...for the Petitioner.

Mr. Sachit Talukdar.

...for the State.

1. Petitioner is in custody for more than three years. She submits there is delay in trial. Accordingly, she prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends five witnesses have been examined.
3. We have considered the materials on record. 260 gms. of heroin in all was recovered from the joint possession of petitioner and co-accused. Petitioner is in custody for more than three years. There is little possibility of trial concluding in the near future.
4. Under such circumstances, we are of the opinion petitioner has made out a case for bail on the ground of breach of his fundamental right to speedy trial under Article 21 of the Constitution of India. He is entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered by

restrictions under Section 37 of the NDPS Act. Reference in this regard may be made to *Rabi Prakash Vs. The State of Odisha*¹.

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

6. Accordingly, the petitioner viz., **Nazmi Begum** 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, Alipore, South 24-Paraganas subject to condition that she 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 her 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