

04.04.2024.
21.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 596 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak P.S. Case No.1429 of 2021 dated 24.12.2021 under Sections 21(C)/22(C)/27A/29 of the NDPS Act.

In the matter of : **Sahar Banu Bibi.**

.... Petitioner.

Mr. Arup Kr. Bhowmick.

...for the Petitioner.

Mr. Subrato Roy,
Mr. Tirupati Mukherjee.

...for the State.

1. Petitioner is in custody for two years and three 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 bail prayer of the petitioner was rejected on merits in August, 2023.
3. We have considered the materials on record. Bail prayer of petitioner was rejected on merits in August, 2023. 280 gms. of brown sugar and 230 gms. of yaba tablets were recovered from the house of the petitioner. However, trial is progressing at a sluggish pace. Only one out of seven witnesses have been examined till date. Defence is not responsible for the delay. 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., **Sahar Banu Bibi** 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 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 1109