

09.04.2024
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 572 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.03.2024 in connection with Bizpur Police Station Case No.09 of 2022 dated 08.01.2022 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Sabir Molla @ Babu & Anr.***

... .. Petitioners

Mr. Debasis Kar

... .. for the petitioners

Mr. Iqbal Kabir
Ms. Pinki Sarkar

... .. for the State

1. It is submitted on behalf of the petitioners that they are in custody for about two years and three months. It is further submitted there is slow progress in trial. Accordingly, they pray for bail.
2. Report is placed on record.
3. Learned Advocate for the State opposes the prayer for bail and submits two witnesses have already been examined.
4. We have considered the materials on record. Though narcotics i.e. 5 kgs. of *codeine phosphate* in all was recovered from the petitioners, they are in custody for more than two years. Two witnesses have been examined till date. Prosecution proposes to examine eight witnesses in all. Delay in the matter cannot be attributed to the petitioners. There is little possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioners have been able to make out a case of breach of their fundamental right to speedy trial and are entitled to bail on this score. Bail prayer on the ground of inordinate 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. Therefore, the petitioners, namely **(1) Sabir Molla @ Babu & (2) Rabi Das @ Sukumar @ Mama**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act, Barrackpore, North 24-Parganas subject to condition that the said petitioners 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.
6. In the event they fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109