

03.04.2024.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 582 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with GRPS Case No.39 of 2020 dated 01.03.2020 under Section 20(b)(ii)(c) of the NDPS Act.

In the matter of : **Saddam Hossain @ Noor.**

.... Petitioner.

Mr. Tapodip Gupta,
Sk. toslim Ali,
Mr. Suman Bhanja.

...for the Petitioner.

Mr. Koushik Kundu,
Ms. Nandini Chatterjee.

...for the State.

1. Petitioner is in custody for more than four years. He submits there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends trial is in progress. Five witnesses have been examined.
3. We have considered the materials on record. Though allegations involve recovery of 21 kgs. of ganja which is above commercial quantity, we note petitioner is in custody for a protracted period of time. Only five out of twelve witnesses have been examined. Delay in the matter is not attributable to the petitioner. 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., **Saddam Hossain @ Noor** 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, Howrah 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.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109