

03.04.2024.
14.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 583 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.04 of 2020 arising out of Jamuria P. S. Case No.197 of 2020 dated 19.07.2020 under Section 20(b)(ii)(c) of the NDPS Act.

In the matter of : **Bidyut Tewari @ Bidyut Tiwari.**

.... Petitioner.

Mr. Saibal Mondal,
Mr. Partha Pratim Sinha.

...for the Petitioner.

Mr. Abhisek Sinha,
Mr. Sayan Datta.

...for the State.

1. Petitioner is in custody for more than three years and eight months. He submits inspite of direction given by this Court in CRM (NDPS) 427 of 2023 to conclude trial within one year, there is hardly any progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends one witness has been examined in part.
3. We have considered the materials on record. Allegations involve recovery of 216 kgs. of ganja from the petitioner and co-accused. While rejecting the bail prayer of co-accused in CRM (NDPS) 427 of 2023, trial court was requested to conclude the trial preferably within one year from the next date fixed for recording evidence. Till date only one witness has been examined in part. Prosecution proposes to examine 18 witnesses. 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., **Bidyut Tewari @ Bidyut Tiwari** 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, Asansol, Paschim Bardhaman 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

