

22.04.2024.
08.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 593 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.03 of 2022 arising out of Bidhannagar South P.S. Case No.03 of 2022 dated 05.01.2022 under Sections 21(C)/29 of the NDPS Act.

In the matter of : **Sk. Sajid @ Altab.**

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Ms. Trisha Rakshit.

...for the State.

1. Petitioner is in custody for more than two years. He submits there is delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits report.
3. We have considered the materials on record. Though allegations involve recovery of 6 ltrs. of codeine mixture from petitioner and co-accused, they are in custody for more than two years. Five out of ten witnesses have been examined. To test the *bona fides* of the prosecution to conduct prompt trial, we adjourned the hearing of the bail application till today and directed examination of witnesses in course of the last schedule fixed between 15th to 17th April, 2024. Report shows no witness turned up. This discloses indifference on the part of the prosecution to lead evidence and conclude trial at an early date. Petitioner 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., **Sk. Sajid @ Altab** 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 NDPS Act, Barasat, North 24-Paraganas 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 1109

