

12.04.2024
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 606 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.03.2024 in connection with Daulatabad Police Station Case No.230 of 2020 dated 05.11.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.254 of 2020)

And

In Re: ***Alamgir Mondal***

... .. Petitioner

Mr. Joy Chakraborty
Mr. Sandip Dinda

... .. for the petitioner

Ms. Faria Hossain .. Id. Addl. Public Prosecutor
Ms. Subhasree Patel

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail.
3. We have considered the materials on record. Though narcotics i.e. 12 ltrs. of *codeine phosphate* was recovered from the petitioner, he is in custody for more than three years. Trial is progressing at a slow pace. Only two witnesses have been examined till date. Prosecution proposes to examine fourteen witnesses. Delay in the matter cannot be attributed to the petitioner. There is little possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is 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.

4. Therefore, the accused/petitioner, namely ***Alamgir Mondal***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), 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, 5th Court, Berhampore, Murshidabad subject to condition that the said petitioner 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.
5. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109