

01.05.2024
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 605 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.03.2024 in connection with Gaighata Police Station Case No.1141 of 2022 dated 07.12.2022 under Section 21(c) of the NDPS Act.

And

In Re: ***Alimur Shaikh***

... .. Petitioner

Mr. Kamalesh Chandra Saha
Ms. Payel Mitra

... .. for the petitioner

Mr. Shekhar Barman

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about one year and three months. It is further submitted there is slow progress in trial. Witnesses have not turned up during trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Though narcotics i.e. 100 bottles of *phensedyl syrup* were recovered from the petitioner, he is in custody for about one year and three months. No witnesses have been examined till date. Even during the last schedule i.e. on 25th and 26th April, 2024 witnesses did not turn up. This shows indifferent attitude on behalf of the prosecution to lead evidence. Under such circumstances, we are constrained to hold 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 ***Alimur Shaikh***, 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-cum-Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas 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