

15.04.2024.
06.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 613 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Howrah GRPS Case No.63 of 2022 dated 09.08.2022 under Section 21(c) of the NDPS Act.

In the matter of : **Hasen Sk.**

.... Petitioner.

Mr. Joy Chakraborty,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Sujoy Sarkar.

...for the State.

1. Petitioner is in custody for one year and eight months. He submits there is slow progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits report. From the report, it appears date has been fixed for consideration of charge.
3. We have considered the materials on record. Though 100 bottles of phensedyl syrup were recovered from the petitioner, he is in custody for one year and eight months. Charge is yet to be framed. Prosecution proposes to examine nine witnesses. Delay is not attributed to the defence. 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 **Hasen Sk** 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 1109