

07.05.2024.
06.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 623 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.85 of 2022 arising out of Lalgola P.S. Case No.111 of 2022 dated 04.04.2022 under Sections 21(c) of the NDPS Act.

In the matter of : **Jahangir Alam.**

.... Petitioner.

Mr. Tapodip Gupta,
Mr. Suman Bhanja.

...for the Petitioner.

Mr. Kunal Ganguly.

...for the State.

1. Petitioner contends he is in custody for two years and one month. After rejection of bail by the Hon'ble Apex Court in September, 2023, no prosecution witness has been examined till date. Accordingly, he prays for bail on the ground of delay.
2. Learned Advocate for the State opposes the bail prayer. He submits bail prayer of the petitioner was rejected by this Court as well as by the Hon'ble Apex Court. Thereafter, charge has been framed.
3. We have considered the materials on record. Allegations show recovery of 50 bottles of phensedyl syrup containing codeine phosphate from the petitioner. On such score bail prayer of the petitioner was rejected by the Hon'ble Apex Court in September, 2023. Since then only charge has been framed. As schedule for examination of witnesses was fixed between 2nd and 4th May, 2024, to test the bona fides of the prosecution, we adjourn the hearing till today. Presently, we are informed no witnesses turned up during the aforesaid schedule. Prosecution

proposes to examine thirteen witnesses. Prosecution does not show adequate urgency to conclude trial in the near future. Petitioner has suffered detention for a considerable period of time. Further detention of the petitioner would infract his fundamental right to speedy justice and he is entitled to bail on this score.

4. Reference in this regard be made to ***Rabi Prakash Vs. State of Odisha***¹

5. Hence, we are inclined to grant bail to the petitioners.

6. Accordingly, the petitioners viz., **Jahangir Alam** shall be released on bail upon furnishing a bond of Rs.10,000/- each 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, Berhampore, Murshidabad 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

