

10.04.2024.  
12.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (NDPS) 634 of 2024**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.210 of 2021 arising out of Sagardighi P.S. Case No.375 of 20212 dated 28.09.2021 under Section 21(c) of the NDPS Act.

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

.... Petitioner.

Mr. Jisan Iqubal Hossain.

...for the Petitioner.

Mr. Manoranjan Mahata.

...for the State.

1. Petitioner is in custody for two years and six months. He submits there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits date has been fixed for examination of witnesses on 3<sup>rd</sup> to 5<sup>th</sup> June, 2024.
3. We have considered the materials on record. 100 bottles of phensedyl syrup were recovered from the petitioner. However, he is in custody for two years and six months. Though charge was framed in 2022, no prosecution witness turned up till date. This shows indifferent attitude of the prosecution to conduct speedy trial. Delay is not at the behest of the petitioner. 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***<sup>1</sup>

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

6. Accordingly, the petitioner viz **Rupchand 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, 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.)**

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<sup>1</sup> 2023 SCC OnLine 1109