

16.04.2024
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 662 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.03.2024 in connection with Gangarampur Police Station Case No.89 of 2021 dated 30.03.2021 under Sections 22(c)/23(c)/27A/28/29 of the NDPS Act.

And

In Re: **Noor Islam @ Nur Islam**

... .. Petitioner

Mr. Kaushik Choudhury

... .. for the petitioner

Mr. Arijit Ganguly
Mr. Habib Hassan

... .. 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 Advocate for the State opposes the prayer for bail and submits two out of eleven witnesses have been examined.
3. We have considered the materials on record. Though narcotics i.e. 150 bottles of *phensedyl syrup*, which is above commercial quantity was recovered from the petitioner, he is in custody for more than three years. Only two out of eleven witnesses have been examined till date. Delay in the matter cannot be attributed to the petitioner. There is no 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 ***Noor Islam @ Nur Islam***, 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 District Judge, 3rd Court, Balurghat, Dakshin Dinajpur 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