

16.04.2024
Sl. No.16
akd
[ALLOWED]

C. R. M. (NDPS) 663 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 Kaliachak Police Station Case No.542 of 2020 dated 10.07.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re: **Sahin Sk. @ Sahen**

... .. Petitioner

Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Iqbal Kabir

Mr. Santanu Talukder

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years and nine months. It is further submitted there is inordinate delay in trial. In spite of direction given by this court on 06.04.2023 in CRM (NDPS) 672 of 2023 to conclude trial within one year, there is hardly any progress in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits delay in the matter was due to absence of the Presiding officer. Three witnesses have already been examined.
3. We have considered the materials on record. Petitioner is in custody for about three years and nine months. On 06.04.2023 while rejecting his bail prayer, this court directed the trial court to conclude trial preferably within one year from the next date fixed for recording evidence. Thereafter, no witnesses were produced in course of the first schedule commencing from 19.06.2023. The second schedule failed due to absence of the Presiding officer. In course of the third schedule, three witnesses have been examined. This shows trial is

progressing at a slow pace and there is no possibility of it concluding in the near future. Delay in the matter cannot be attributed to the petitioner. 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 ***Sahin Sk. @ Sahen***, 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, Malda 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

