

23.04.2024
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 685 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.04.2024 in connection with Kulpi Police Station Case No.304 of 2021 dated 01.10.2021 under Sections 20(b)(ii)(c)/21(c)/29 of the NDPS Act.

And

In Re: ***Sabuktigin Gazi @ Subaktagin Gazi @ Raju***

... .. Petitioner

Mr. Soumya Nag
Mr. Aditya Tiwari
Ms. Namrata Chatterjee

... .. for the petitioner

Mr. Sujan Chatterjee

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years. It is further submitted petitioner had lodged complaint against the police authorities for illegally refusing to return a seized vehicle. In retaliation, he has been falsely implicated in the instant case alleging possession of narcotics above commercial quantity. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Advocate for the State opposes the prayer for bail and submits narcotics i.e. 3.95 kgs. of *Charas* was recovered from the petitioner and co-accused. Trial is in progress. Three witnesses have been examined.
4. We have considered the materials on record. Petitioner contends due to prior enmity he has been falsely implicated. This issue requires to be thrashed out in course of trial. With regard to progress in trial we note petitioner is in custody for about three years. Only three out of twelve witnesses have been examined till date. Progress in the trial is not appreciable. There is little 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.

5. Therefore, the accused/petitioner, namely ***Sabuktigin Gazi @ Subaktagin Gazi @ Raju***, 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, 12th Court, Alipore, South 24-Parganas 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109