

C. R. M. (NDPS) 698 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 15.04.2024 in connection with Raninagar Police Station Case No.01 of 2022 dated 01.01.2022 under Section 21(c) of the NDPS Act. (NDPS Case No.11 of 2022)

And

In Re: ***Tutul Sk.***

... .. Petitioner

Mr. Debanshu Ghorai
Mr. Anisur Rahman

... .. for the petitioner

Mr. Iqbal Kabir
Ms. Suchismita Dutta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and three months. 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 charge has been framed. Date has been fixed for recording evidence.
3. We have considered the materials on record. Though narcotics i.e. 69 bottles of *phensedyl syrup* were recovered from the petitioner, he is in custody for more than two years. No witness has been examined till date. Prosecution proposes to examine ten witnesses in all. Delay in the matter cannot be attributed to the defence. 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 ***Tutul Sk.***, 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 & Sessions Judge, 2nd Court, Berhampore, Murshidabad 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 and on further condition that the petitioner, while on bail, shall not leave the jurisdiction of Raninagar Police Station except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Raninagar Police Station once in a week until further orders.
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