

01.05.2024
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 709 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.04.2024 in connection with Berhampore Police Station Case No.408 of 2022 dated 02.04.2022 under Sections 22(c)/29 of the NDPS Act read with Section 25(1-B)(a) of the Arms Act. (NDPS Case No.84 of 2022)

And

In Re: **Sukchand Shaikh**

... .. Petitioner

Mr. Ali Ahasan Alamgir
Ms. Soma Mal
Ms. Rabia Khatoon

... .. for the petitioner

Mr. Ashok Das

... .. 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.
3. We have considered the materials on record. Though narcotics i.e. 75 bottles of *phensedyl syrup* were recovered from the petitioner, he is in custody for a considerable period of time. No witness has been examined till date. Prosecution proposes to examine eleven witnesses in all. 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 ***Sukchand Shaikh***, 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, 5th 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.
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