

26.04.2024

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Allowed

C.R.M. (NDPS) No. 724 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Malipanchghora Police Station Case No. 118 of 2019 dated 23.06.2019 under Section 20(b)(ii)(c) of the N.D.P.S. Act.

In Re : Pancha Ansari petitioner

Mr. Mrityunjoy Chatterjee
Mr. Manas Das
Mr. Arindam Poali
.... for the petitioner

Ms. Amita Gaur
Mr. Nazmul Touhid
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than four years. It is also submitted there is inordinate delay in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits most of the witnesses have already been examined.

3. We have considered the materials on record. 22 kgs. of Ganja was recovered from the joint possession of the petitioner and co-accused. They are in custody for more than four years. Only four out of ten witnesses have been examined. Delay in the matter cannot be attributed to the defence. There is no possibility of trial concluding in the near future. Under such circumstances, petitioner has made out a case for bail on

the ground of delay in trial. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act as held in ***Rabi Prakash Vs. State of Odisha***¹. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Howrah, subject to condition that 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.

5. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109