

30.04.2024
Sl. No.12
akd
[ALLOWED]

C. R. M. (NDPS) 734 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.04.2024 in connection with Dasnagar Police Station Case No.84 of 2020 dated 23.06.2020 under Section 21(c) of the NDPS Act.

And

In Re: **Krishna Sarkar**

... .. Petitioner

Sk. Toslim Ali

... .. for the petitioner

Mr. Manoranjan Mahata

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years and ten 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 five out of ten witnesses have been examined.
3. We have considered the materials on record. Though narcotics i.e. 1.8 ltrs. of *codeine mixture* was recovered from the petitioner, he is in custody for about three years and ten months. Only five witnesses have been examined till date. Prosecution proposes to examine ten 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 ***Krishna Sarkar***, 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, 3rd Court, Howrah 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