

26.04.2024

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Allowed

C.R.M. (NDPS) No. 725 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhagwangola Police Station Case No. 249 of 2022 dated 14.04.2022 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Bidyut Mondal @ Bidyut Mandal @ Arijit Mondal petitioner

Mr. Tapodip Gupta

.... for the petitioner

Mr. Binay Kumar Panda

Ms. Pallavi Priyadarshee

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two 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.

3. We have considered the materials on record. 500 bottles of Phensedyl Syrup were recovered from the petitioner. He is in custody for more than two years. No prosecution witness has been examined till date. 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 Odisha¹. 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-cum-Additional District Judge, 2nd Court, Berhampore, Murshidabad, 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