

29.04.2024

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Allowed

C.R.M. (NDPS) No. 729 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baishnabnagar Police Station Case No. 759 of 2022 dated 27.08.2022 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Md. Jahangir Alam . .... petitioner

Mr. Amitabha Karmakar

Mr. Arup Kumar Bhowmick

.... for the petitioner

Ms. Amita Gaur

Mr. Saibal Krishna Dasgupta

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and nine months. It is also submitted there is slow progress in trial. Accordingly, he prays for bail.

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

3. We have considered the materials on record. 828 gms. of Brown Sugar was recovered from the petitioner. He is in custody for one year and nine months. Only two out of ten witnesses have been examined till date. Petitioner is not responsible for the delay. There is little 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***<sup>1</sup>. 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, 3<sup>rd</sup> Court, Malda, 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.)**

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<sup>1</sup> (2023) SCC Online SC 1109