

01.05.2024
Sl. No.23
akd
[ALLOWED]

C. R. M. (NDPS) 744 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.04.2024 in connection with Bhatpara Police Station Case No.421 of 2022 dated 06.06.2022 under Section 21(c) of the NDPS Act.

And

In Re: **Sk. Sahabaj**

... .. Petitioner

Mr. Sanat Kumar Das
Mr. Sujan Chatterjee
Mr. Santanu Das
Mr. Souparna Sinha
Mr. Rohan Bauishi

... .. for the petitioner

Md. Juber Alam
Mr. Asraf Mandal

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about one year and ten months. It is further submitted there is delay in trial. Charge has not yet been framed. Accordingly, he renews his prayer 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. 1.2 kgs. of *codeine phosphate* was recovered from the petitioner, he is in custody for a considerable period of time. His bail prayer was rejected on merits in August, 2023. But there is no progress in the matter since then and charge has not yet been framed. This shows indifference of the prosecution to conduct speedy trial. 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 ***Sk. Sahabaj***, 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, Barrackpore, North 24-Parganas 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