

09.05.2024

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Allowed

C.R.M. (NDPS) No. 752 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Uluberia Police Station Case No. 23 of 2023 dated 20.01.2023 under Sections 20(b)(ii)(c)/29 of the N.D.P.S. Act.

And
In Re : Anil Singh petitioner

Ms. Devi Priya Mitra
.... for the petitioner

Mr. Arani Bhattacharyya
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and four months. No prosecution witness has been examined. Accordingly, he prays for bail.

2. Learned Counsel for the State submits report. Let the report be kept on record.

3. We have considered the materials on record. Though 34.205 kgs. of Ganja was recovered from a vehicle which was driven by the petitioner he is in custody for a considerable period of time. No witnesses have been examined. This shows indifference on the part of the prosecution to conduct the trial expeditiously. Under such circumstances, petitioner has made out a case for bail on the ground of delay in trial which infracts his fundamental right to speedy justice under Article 21 of the Constitution of India. 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-cum-Additional District Judge, 3rd Court, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109