

01.05.2024.
32.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 753 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.72 of 2022 arising out of Lalgola P.S. Case No.87 of 2022 dated 17.03.2022 under Sections 21(c)/29 of the NDPS Act and charge sheet submitted under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Lalu Sk. @ Md. Lulu Sk.**

.... Petitioner.

Ms. Shabana Hasin,
Ms. Samima Akter Banu,
Ms. Neha Roy.

...for the Petitioner.

Mr. Ashok Das.

...for the State.

1. Petitioner is in custody for two years and four months. He submits there is slow progress in trial. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends four witnesses have been examined.

3. We have considered the materials on record. It is alleged 600 gms. of heroin was recovered from petitioner but he is in custody for more than two years. Only four out of thirteen witnesses have been examined. Petitioner is not responsible for the delay. There is little possibility of trial concluding in the near future.

3. Under such circumstances, we are of the opinion petitioner has been able to make 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***¹

4. Hence, we are inclined to grant bail to the petitioners.

5. Accordingly, the petitioners viz., **Lalu Sk. @ Md. Lalu Sk.** 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 the NDPS Act, Berhampore, Murshidabad subject to condition that he 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.

6. 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine 1109