

01.05.2024
Sl. No.24
akd
[ALLOWED]

C. R. M. (NDPS) 745 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.04.2024 in connection with Baruipur Police Station Case No.624 of 2022 dated 12.04.2022 under Section 20(b)(ii)(c) of the NDPS Act. (NDPS Case No.30 of 2022)

And

In Re: ***Kabla @ Sirajul Baidya***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioner

Mr. S. S. Imam
Mr. Nazmut Touhid

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than two years. It is further submitted there is inordinate delay in trial. No witness has yet been examined. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner was involved in dealing in narcotics above commercial quantity.
3. We have considered the materials on record. Narcotics i.e. over 39 kgs. of *Ganja* was recovered from a farm house. During raid a vehicle came to the farm house which was apprehended. Petitioner was inside the vehicle. Over 20 kgs. of *Ganja* was recovered from the vehicle. This shows petitioner was involved in dealing in narcotics i.e. 59 kgs. of *Ganja*, which is above commercial quantity. However, he is in custody for over two years. But no witness has been examined till date. Prosecution proposes to examine eleven witnesses in all. 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 ***Kabla @ Sirajul Baidya***, 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-cum-Additional District & Sessions Judge, 12th Court, Alipore, South 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 and on further condition that the petitioner, while on bail, shall remain within the district of South 24-Parganas and shall report to the Officer-in-charge, Baruipur Police Station once in a week until further orders.
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

