

06.05.2024.
05.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 768 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.250 of 2021 arising out of Ranitala P.S. Case No.423 of 2021 dated 11.11.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Tarjel Sk @ Tarjen Sk.**

.... Petitioner.

Mr. Tapodip Gupta.

...for the Petitioner.

Ms. Baisali Basu,

Mr. Soumya Basu Roy Chowdhuri.

...for the State.

1. Petitioner is in custody for two years and five months. He submits there is little possibility of trial concluding in the near future. Accordingly, he renews his bail prayer.
2. Learned Advocate for the State opposes the bail prayer. He submits bail prayer was rejected on merits earlier.
3. We have considered the materials on record. 10 ltrs. of codeine mixture was allegedly recovered from petitioner. On merits his bail prayer was rejected earlier. Presently, he prays for bail on the ground of delay in trial. He contends only four out of 14 witnesses have been examined till date. Progress in the trial is not appreciable. There is little possibility of trial concluding in the near future.
4. 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

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

6. Accordingly, the petitioners viz., **Tarjel Sk @ Tarjen Sk.** shall be released on bail upon furnishing a bond of Rs.10,000/- each 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.

7. 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.

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

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine 1109