

06.05.2024.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 772 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.49 of 2019 arising out of New Barrackpore P.S. Case No.84 of 2019 dated 29.03.2019 under Section 20(b)(ii) of the NDPS Act and charge sheet submitted under Section 20(b)(ii)(C) of the NDPS Act.

In the matter of : **Santu Roy @ Kelo.**

.... Petitioner.

Mr. Moyukh Mukherjee,
Mr. Abhijit Singh,
Ms. Sarmistha Basak.

...for the Petitioner.

Mr. Ashok Das.

...for the State.

1. Heard the learned Advocates for the parties.
2. We have considered the materials on record. Petitioner is in custody for more than five years. He contends there is slow progress in trial. We note though 20.1 kgs. of ganja was allegedly recovered, no witness has been examined till date. This shows gross indifference on the part of the prosecution to conduct trial expeditiously.
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.

¹ 2023 SCC OnLine 1109

5. Accordingly, the petitioners viz., **Santu Roy @ Kelo** 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, Barrackpore, North 24-Paraganas 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.)