

07.05.2024
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 777 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.04.2024 in connection with Kanksa Police Station Case No.377 of 2021 dated 08.12.2021 under Sections 22(c)/29 of the NDPS Act. (NDPS Case No.31 of 2021)

And

In Re: ***Prasanta Roy @ Mithun***

... .. Petitioner

Mr. Sujan Chatterjee
Mr. Rohan Bavishi

... .. for the petitioner

Mr. Suman De
Mr. Rajashree Tah

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 2½ years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits one witness has been examined in part.
3. We have considered the materials on record. Petitioner is in custody for about 2½ years. Only one witness has been examined in part. Prosecution proposes to examine nine witnesses in all. Though some portion of the delay was due to abscondence of co-accused, the slow progress in examination of witnesses show indifference on the part of the prosecution to conclude trial at an early date. 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 ***Prasanta Roy @ Mithun***, 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 Sessions Judge, 3rd Court, Asansol, Paschim Bardhaman 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.
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