

07.05.2024
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 780 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 Andal GRPS Case No.04 of 2022 dated 08.02.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.03 of 2022)

And

In Re: **Saddam Hossain**

... .. Petitioner

Mr. Ayan Basu
Sk. Salim
Mr. Sumit Routh

... .. for the petitioner

Ms. Faria Hossain .. Id. Addl. Public Prosecutor
Ms. Rafat Jahan

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and three months. 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 most of the witnesses are official witnesses.
3. We have considered the materials on record. Though narcotics i.e. 199 bottles of *phensedyl syrup* containing *codeine phosphate* were recovered from the petitioner and co-accused, petitioner is in custody for more than two years. No official witnesses have turned up till date. This demonstrates indifference on the part of the prosecution to conclude trial expeditiously. 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 ***Saddam Hossain***, 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