

10.05.2024

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Allowed

C.R.M. (NDPS) No. 792 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bongaon Police Station Case No. 944 of 2019 dated 04.12.2019 under Section 21(c) of the N.D.P.S. Act.

And
In Re : Chandrakanta Ray alias Roy petitioner

Mr. Angshuman Chakraborty
Mr. S. S. Saha
.... for the petitioner

Mr. Saibal Bapuli, learned APP
Mr. Soumadip Saha
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for four years and six months. It is also submitted there is inordinate delay in trial. He renews his bail prayer.

2. Learned Counsel for the State opposes the bail prayer and submits three witnesses have already been examined.

3. We have considered the materials on record. 5 litres of codeine mixture was recovered from the petitioner. Under such circumstances bail prayer of the petitioner was rejected earlier by order dated 30.09.2022 in CRM (NDPS) 1179 of 2022. This Court while rejecting the bail prayer requested the trial court to conclude trial expeditiously preferably within one year from the next date fixed for recording evidence but till date only three witnesses have been examined. Petitioner is in custody

for more than four years. These facts disclose slow progress in trial which has infringed his fundamental right to speedy justice under Article 21 of the Constitution of India. 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. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-learned Additional Sessions Judge, 6th court, Barasat, North 24-Parganas, subject to condition that 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.

5. 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.

6. The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109