

10.05.2024

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Allowed

C.R.M. (NDPS) No. 801 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No. 403 of 2022 dated 29.12.2022 under Sections 21(c) / 29 of the N.D.P.S. Act.

And

In Re : Hanif Biswas petitioner

Mr. Arnab Chatterjee
Mr. Anisur Rahaman
Ms. Dhanasree Biswas

.... for the petitioner

Mr. Abhisekh Sinha
Ms. Poulami Bose

.... for the State

1. Heard the learned Counsels for the parties.

2. We have considered the materials on record.

Petitioner is in custody for one year and four months. Though 125 bottles of phensedyl syrup containing codeine phosphate were recovered from the petitioner charge has not yet been framed. Prosecution proposes to examine twelve witnesses. There is little possibility of trial concluding in the near future. Under such circumstances, petitioner has made 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. Hence, we are inclined to grant bail to the petitioner.

¹ (2023) SCC Online SC 1109

3. 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-Additional District Judge, 5th court, Murshidabad at Berhampore, 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.

4. 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.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)