

10.05.2024

8
sdas
Allowed

C.R.M. (NDPS) No. 797 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 365 of 2022 dated 10.04.2022 under Sections 22(c)/27A/29 of the N.D.P.S. Act.

And
In Re : Arjun Roy petitioner

Mr. Arup Kumar Bhowmick
.... for the petitioner

Mr. Rudradipta Nandy, learned APP
Mr. S. K. Dasgupta
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years. It is also submitted there is delay in trial. He prays for bail.

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

3. We have considered the materials on record. Though 95 gms. of yaba tablets were recovered from the petitioner but he is in custody for more than two years. Only two out of ten witnesses have been examined. There is no possibility of trial concluding in the near future. Under such circumstances we are constrained to hold fundamental right of the petitioner to speedy justice under Article 21 of the Constitution of India has been infringed. 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 District Judge, 4th court, Malda, 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