

05.11.2024

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Allowed

C.R.M. (NDPS) No. 1253 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure correspondence to Section 483 of BNSS in connection with Airport Police Station Case No. 193 of 2022 dated 14.07.2022 under Sections 21(c)/22(c)/29 of the N.D.P.S. Act.

And
In Re : Kamal Kumar Singh petitioner

Mr. Debasis Kar
.... for the petitioner

Mr. Bibhaswan Bhattacharya
Ms. Poulami Bose
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and three months. It is also submitted there is slow progress in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State submits report with regard to status of trial.

3. We have considered the materials on record. Though petitioner is in custody for more than two years recording of evidence has not commenced as yet. Eleven witnesses are proposed to be examined. There is no 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.

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, Barrackpore, 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109