

12.09.2024
Sl. No.73
akd
[ALLOWED]

C. R. M. (NDPS) 1443 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 04.09.2024 in connection with Kaliachak Police Station Case No.1344 of 2021 dated 03.12.2021 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Md. Raju Sk. @ Raju Sk.***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Ms. Eshita Dutta

... .. for the State

1. It is submitted on behalf of the petitioner he is in custody for almost three years. 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 bail prayer of the petitioner was rejected in February, 2024. This court requested the trial court to conclude trial preferably within one year from the next date fixed for recording evidence. Only two witnesses have been examined till date.
3. We have considered the materials on record. Narcotics i.e. 960 gms. of *Yaba* tablets were recovered from the petitioner. His bail prayer was rejected earlier on merits. On the score of delay we note petitioner is in custody for about three years. In CRM (NDPS) 269 of 2024 this court directed the trial court to conclude trial preferably within one year from the next date fixed for recording evidence. More than six months have expired since then but there is hardly

any progress in trial. Only two witnesses have been examined till date. There is no possibility of trial concluding within the proposed time frame. 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 ***Md. Raju Sk. @ Raju Sk.***, 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 District Judge, 3rd Court, Malda 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

