

05.11.2024

35
sdas
Allowed

C.R.M. (NDPS) No. 1478 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 Canning Police Station Case No. 23 of 2022 dated 14.01.2022 under Sections 21(c) of the N.D.P.S. Act.

And

In Re : Asmatulla Gazi @ Jamai @ Kochi petitioner

Mr. Angshuman Chakraborty
.... for the petitioner

Mr. Anand Keshri
Ms. Jonaki Saha
.... for the State

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

2. Learned Counsel for the State submits trial is in progress.

3. We have considered the materials on record. Though four litres of codeine mixture is alleged to have been recovered, petitioner has suffered incarceration for about three years. Trial has not come to an end. A number of witnesses are yet to be examined. 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 Odisha¹. 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, Alipore, South 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109