

05.11.2024
Sl. No.36
akd
[ALLOWED]

C. R. M. (NDPS) 1482 of 2024

In Re: An application for bail under Section 483 of the Bhatatiya Nagarik Suraksha Sanhita, 2023 filed on 11.09.2024 in connection with Liluah Police Station Case No.130 of 2022 dated 02.04.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: **Zafar Khan**

... .. Petitioner

Sk. Toslim Ali

... .. for the petitioner

Mr. Debasish Roy .. Id. Public Prosecutor
Mr. Koushik Kundu
Mr. Rahul Ganguly

... .. for the State

1. It is submitted on behalf of the petitioner he is in custody for about two years and five months. Inspite of direction given by this court in CRM (NDPS) 740 of 2024 to consider the issue of framing of charge preferably within two months, charge has not been framed as yet. Accordingly, he prays for bail.

2. Report is filed on behalf of the State.

3. We have considered the materials on record. Narcotics i.e. 107.46 kgs. of *Ganja* was recovered from a vehicle. Petitioner was present in the vehicle. His bail prayer was turned down in May, 2024 and direction was given to consider the issue of framing of charge preferably within two months. Charge has not been framed till date. Petitioner has suffered incarceration for about two years and five months. There is no possibility of trial concluding in the near future. 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 ***Zafar Khan***, 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 & Sessions Judge, 3rd Court, Howrah 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 and on further condition that the petitioner, while on bail, shall remain within the district of Howrah and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge, Liluah Police Station once in a week until further orders.

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