

06.11.2024

45
sdas
Allowed

C.R.M. (NDPS) No. 1520 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of BNSS in connection with Hemtabad Police Station Case No. 125 of 2022 dated 02.04.2022 under Section 21(c) of the N.D.P.S. Act.

And

In Re : Monirul Sk. @ Manirul Sk. @ Monirul Sekh petitioner

Mr. Navanil De
Mr. Srinjan Ghosh

.... for the petitioner

Mr. Joydeep Roy
Mr. Rahul Ganguly

.... for the State

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

2. Learned Counsel for the State opposes the prayer for bail.

3. We have considered the materials on record. Though 45 bottles of phensedyl syrup containing codeine phosphate were recovered from the petitioner he is in custody for a considerable period of time. Six out of thirteen witnesses have been 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 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, Raiganj, Uttar Dinajpur, 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