

13.11.2024.
33.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1549 of 2024

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NDPS Case No.30 of 2021 arising out of STF P.S. Case No.15 of 2021 dated 13.08.2021 under Sections 21(c)/22(c)/29 of the NDPS Act.

In the matter of : ***Md. Esmail Sk.***

.... Petitioner.

Mr. Debasish Mallick Chowdhury,
Mr. Ramasish Mukherjee,
Ms. Sinthiya Mukherjee,
Mr. Subhankar Kundu.

...for the Petitioner.

Mr. Saryati Dutta
Mr. S. Nandy.

...for the State.

1. Petitioner submits he is in custody for three years and three months. There is inordinate delay in trial. He renews his bail prayer.
2. Learned Advocate for the State submits report. He submits the earlier direction of this Court to conclude trial within a year i.e. by September, 2024 was not communicated to the trial court.
3. We have considered the materials on record. Allegations involve recovery of narcotics above commercial quantity i.e. 1.136 kgs. of yaba tablets. In view of large volume of recovery, bail prayer was rejected earlier in September, 2023. Trial court was directed to complete trial within a year but the said order had not been communicated. Be that as it may, progress in trial is not appreciable. Only two out of fourteen witnesses have

been examined. There is little possibility of concluding trial in the near future.

4. Under such circumstances, we are of the opinion petitioner has been able to make 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

5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., ***Md. Esmail Sk*** 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 Additional District Judge (1), NDPS Court, Calcutta subject to condition that he 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.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine 1109

