

05.11.2024
tkm/ct 28
sl no. 46

C.R.M. (NDPS) 1547 of 2024

In Re : An application for bail under section 483 of the BNSS 2023 in connection with Baishnabnagar PS case no. 88 of 2022 dated 27.1.2022 under sections 21(c)/27A/29 of the NDPS Act
And

Allowed

In Re : Bogder Sk @ Md. Bogdar Sk @ Bogdar Sekh @ Bogdar Sk.
.....petitioner

Mr. Tapodip Gupta

..... for the petitioner

Mr. Saryati Datta
Ms. Debarshi Brahma

..... for the State

1. Petitioner is in custody for more than two years. He renews his bail prayer on the ground trial has not concluded as yet.
2. Learned lawyer for the State submits trial is in progress and bail prayer of the petitioner was rejected earlier in March 2024.
3. We have considered the materials on record. Considering the volume of narcotics recovered i.e. 1490 bottles of phensedyl syrup, bail prayer of petitioner was rejected in March 2024. At the time of rejection 10 witnesses had been examined. This court requested the trial court to conclude the trial preferably within six months. We are informed only one more witness has been examined till date. This demonstrates tardy progress in trial which justifies reconsideration of bail prayer on the ground of delay. Bail prayer on the ground of delay is not fettered by restrictions under sections 37 of the NDPS Act. Reference in this regard may be made to *Rabi Prakash vs. The State of Odisha*¹
4. Accordingly, the petitioner be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount

¹ 2023 SCC OnLine SC 1109

each, one of whom must be local to the satisfaction of the learned Special Judge under NDPS Act Malda on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

5. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

6. The application being CRM (NDPS) 1547 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)