

08.11.2024.
39.
Ct.No.28.
SG
(Allowed)

C.R.M. (NDPS) 1560 of 2024

In Re:- An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with English Bazar Police Station Case No. 1333/2022 dated 25.08.2022 under Sections 21(C) off the NDPS Act.

In the matter of : **Md. Eyakub Ali @ Eyakub Ali**

.... Petitioner.

Mr. Arup Kumar Bhowmick.

...for the Petitioner.

Ms. Eshita Dutta.

...for the State.

1. Petitioner is in custody for two years and two months.

Accordingly, he prays for bail on the ground of delay.

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

3. We have considered the materials on record. Though allegations involved smuggling across international border, prosecution appears to be very indifferent and has not produced its witnesses. Witness warrant was issued. There is little possibility of trial concluding 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. Eyakub Ali @ Eyakub Ali** 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 the NDPS Act cum Additional District Judge, 4th Court, Special Court, Malda 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