

06.11.2024

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Allowed

C.R.M. (NDPS) No. 1630 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 NCB Crime No. 16/NCB/KOL/2022 under Section 8(c) read with Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Md. Salmaan @ Salman petitioner

Mr. Debanshu Ghorai

Mr. Anisur Rahman

.... for the petitioner

Mr. Arun Kumar Maiti (Mohanty)

Mr. R. R. Mohanty

.... for the NCB

1. Learned Counsel for the petitioner submits he is in custody for two years and four months. It is also submitted there is inordinate delay in trial. Co-accused Majid has been enlarged on bail. Accordingly, he prays for bail.

2. Learned Counsel for the NCB places report on record.

3. From the report it appears that one prosecution witness has been examined in full and another has been examined in part. Prosecution proposes to examine a number of witnesses. There is little possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has made out a case for bail on the ground of delay in trial. Co-accused has also been released on bail. 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. 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 Additional District & Sessions Judge, 5th Court at Murshidabad at Berhampore, 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