

06.11.2024

61  
sdas  
Allowed

C.R.M. (NDPS) No. 1669 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 Kaliachak Police Station Case No. 521 of 2023 dated 02.05.2023 under Section 21(c)/27A/29 of the N.D.P.S. Act.

In Re : Bifal Mandal . .... petitioner

Mr. Arup Kumar Bhowmick  
.... for the petitioner

Ms. Minoti Gomes  
Ms. Sreetama Das  
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and six 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 amount of narcotics seized from the petitioner is above commercial quantity he is in custody for a considerable period. No witness has been examined till date. 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 Odisha***<sup>1</sup>. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct 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 Judge, 3<sup>rd</sup> Court, Special Court, Malda, 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.)**

---

<sup>1</sup> (2023) SCC Online SC 1109