

12.11.2024
Ct. No. 28
SL No. 35
SB

CRM (NDPS) 1721 of 2024

In Re: - An application for bail under Section 439 of Code of Criminal Procedure / 483 of the B.N.S.S. 2023 in connection with Malda Town G.R. P.S. Case No. 09 / 2022 dated 12.3.2022 under Sections 22(c) / 27A/28/29 of NDPS Act

And

In the matter of: Mamoni Das Ghosh @ Mamuni & Anr.

Mr. Arup Kr. Bhowmick ... for the petitioners

Mr. Bibaswan Bhattacharya
Ms. E. Dutta

...for the State

1. Petitioners are in custody for about two years and eight months. There is delay in trial. Co-accused has been enlarged on bail. He prays for bail.
2. Learned counsel appearing for the State opposes the prayer for bail.
3. We have considered the materials on record. Petitioners are in custody for a considerable period. There is no possibility of trial concluding in the near future.
4. Under such circumstances, we are of the opinion petitioners have 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 fetter 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 petitioners.
6. Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Additional District Judge, 4th Court Special

¹ (2023) SCC Online SC 1109

Court Malda subject to condition that petitioners shall appear before the learned Trial Court on every date of hearing until further order and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future.

7. In the event, petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail prayer 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.)