

06.11.2024

62
sdas
Allowed

C.R.M. (NDPS) No. 1708 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 Malda Town GRPS Case No. 09 of 2022 dated 12.03.2022 under Sections 22(c)/27A/28/29 of the N.D.P.S. Act.

And
In Re : Ashadul Hoque Mollah & Anr. petitioners

Mr. Tapodip Gupta
.... for the petitioners

Mr. Debabrata Chatterjee
Ms. Puspita Saha
.... for the State

1. Learned Counsel for the petitioners submits they are in custody for two years and seven months. It is also submitted there is inordinate delay in trial. Accordingly, they pray for bail.

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

3. We have considered the materials on record. Though allegations involve recovery of 20,000 pieces of Methamphetamine weighing about 2.2 kgs. petitioners are in custody for a considerable period of time. Only eight out of twenty witnesses have been examined. There is no possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioners have 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***¹. Hence, we are inclined to grant bail to the petitioners.

4. Accordingly, we direct 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 the learned Judge, Special Court under NDPS Act, Additional District Judge, 4th Court, Malda, subject to condition that petitioners 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 petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their 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