

11.11.2024
Sl. No.50
akd
[ALLOWED]

C. R. M. (NDPS) 1689 of 2024

In Re: An application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 08.10.2024 in connection with Naihati Police Station Case No.139 of 2022 dated 27.03.2022 under Section 21(c) of the NDPS Act.

And

In Re: **Sk. Afjal @ Gollu @ Tinku**

... .. Petitioner

Mr. Subhajit Chowdhury

... .. for the petitioner

Ms. Subhasree Patel

Ms. Trisha Rakshit

... .. for the State

1. It is submitted on behalf of the petitioner he is in custody for about two years and seven months. It is further submitted there is inordinate delay in trial. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Though narcotics above commercial quantity was recovered from the petitioner, we find petitioner has suffered incarceration for more than 2½ years. His bail prayer was rejected in December, 2023. Thereafter only two out of nine witnesses have been examined till date. There is no possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score. Bail prayer on the ground of inordinate delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Reference in this regard may be made to ***Rabi Prakash vs. The State of Odisha***¹.

¹ 2023 SCC OnLine SC 1109

4. Therefore, the accused/petitioner, namely **Sk. Afjal @ Gollu @ Tinku**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), 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, Barrackpore, North 24-Parganas subject to condition that the said 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 or commit similar offences in future.
5. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)