

CRM (NDPS) 1729 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 Bhatpara P.S. Case No. 149 / 2023 dated 02.3.2023 under Sections 21(c) of NDPS Act

And

In the matter of: Sonu Berma @ Fakra

Ms. Joyita Ray ... for the petitioner

Mr. Rudradipta Nandy
Mr. Nandini Chatterjee ...for the State

1. Petitioners are in custody for about one year and eight months. There is delay in trial. Charge has not been framed. He prays for bail.
2. Learned counsel appearing for the State opposes the prayer for bail.
3. We have considered the materials on record. Though narcotic above commercial quantity, that is, 1.5 Kg. of codeine mixture was recovered from petitioner, he is in custody for about 610 days. Charge is yet to be framed.
4. In view of the tardy progress in the matter, petitioner is entitled to bail on the ground of delay in trial.
5. Under such circumstances, we are of the opinion petitioner has 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 fettered by restrictions under Section 37 of the NDPS Act as held in **Rabi Prakash Vs. State of Odisha**.¹
6. Hence, we are inclined to grant bail to the petitioners.
7. Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two

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(2023) SCC Online SC 1109

sureties of like amount each, one of whom must be local, to the satisfaction of learned Additional District and Sessions Judge, First Court and Special Judge, NDPS Act, Barrackpore, North 24 Parganas subject to condition that petitioner 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.

8. In the event, petitioner fails` to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail prayer in accordance with law without further reference to this Court.
9. This application for bail, is thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)