

13.11.2024

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Allowed

C.R.M. (NDPS) No. 1749 of 2024

In Re:- An application for bail under Section 483 of BNSS in connection with Panchla Police Station Case No. 321 of 2022 dated 23.09.2022 under Sections 20(b)(ii)(c) of the N.D.P.S. Act.

In Re : Arif Mondal petitioner

Sk. Toslim Ali
.... for the petitioner

Mr. Iqbal Kabir
Ms. Payel Ghosh
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and two 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 71 Kgs. of Ganja was recovered from the petitioner he is in custody for a considerable period of time. Five out of eighteen witnesses have been examined till date. There is little 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***¹. Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that 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 Judge, Special Court under NDPS Act-cum- learned Additional District & Sessions Judge, 3rd court at Howrah, 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.)

¹ (2023) SCC Online SC 1109