

14.11.2024
tkm/ct 28
sl no. 59

C.R.M. (NDPS) 1754 of 2024

In Re : An application for bail under section 483 of the BNSS 2023 in connection with Survey Park P.S case no. 48 of 2023 dated 23.3.2023 under sections 20(b)(ii)(c)/29 of the NDPS Act
And

Allowed

In Re : Barkat Khan

... petitioner

Mr. Moyukh Mukherjee
Mr. S Gani
Mr. Md. Aqib Badr
Mr. S Shivam

..... for the petitioner

Mr. Joydeep Roy
Ms. Mousumi Sarkar

..... for the State

1. Petitioner is in custody for about two years. He contends charge has not yet been framed. There is little possibility of trial concluding in the near future. He prays for bail on the ground of delay.
2. Learned lawyer for the State submits petitioner was driving the vehicle which was carrying 128.700 kgs of ganja.
3. We have considered the materials on record. Quantity of ganja recovered is very high. However petitioner claims to be the driver of the vehicle and is in custody for a considerable period. Further investigation to ascertain the actual owner of the vehicle is in progress. There is little possibility of trial commencing let alone concluding in the near future. Under such circumstances we are of the opinion petitioner has made out a case for inordinate delay in trial which entitles him to bail. Bail prayer on the ground of delay is not fettered by restrictions under sections 37 of the

NDPS Act. Reference in this regard may be made to *Rabi Prakash vs. The State of Odisha*¹

4. Accordingly, the petitioner 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 Alipore South 24 Parganas on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the district of Kolkata and report to Officer-in-Charge of Survey Park P.S once a week until further orders.

5. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

6. The application being CRM (NDPS) 1754 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109