

15.01.2024
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 04 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.12.2023 in connection with Jagaddal Police Station Case No.213 of 2021 dated 21.03.2021 under Section 21(c) of the NDPS Act.

And

In Re: ***Md. Gulab @ Santosh***

... .. Petitioner

Mr. Debasis Kar

... .. for the petitioner

Mr. Suman De

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about two years and ten months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Advocate for the State opposes the prayer for bail and submits delay was due to systemic reasons.
4. We have considered the materials on record. Though narcotics above commercial quantity was recovered from the petitioner, his bail prayer has been canvassed on the ground of delay in trial. Petitioner has suffered incarceration for about two years and ten months and only one witness has been examined till date. Delay in the matter cannot be attributed to the petitioner. Prosecution proposes to examine fourteen witnesses in all. 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.

5. Therefore, the accused/petitioner, namely ***Md. Gulab @ Santosh***, 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC OnLine SC 1109