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Allowed

C.R.M.(NDPS) No. 2115 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jamuria Police Station Case No. 189 of 2019 dated 20.05.2019 under Sections 20(b)(ii)(c) of the NDPS Act.

And

In Re : Mithun Biswas ..... petitioner

Mr. Joy Chakraborty

Mr. Sandip Dinda

... for the petitioner

Mr. Swapan Banerjee

Mrs. Debjani Sahu

... for the State

1. Learned Counsel for the petitioner submits he is in custody for four years and eight months. It is also submitted there is slow progress in trial. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits report. Let the report be placed on record.

3. We have considered the materials on record. Though narcotics above commercial quantity was recovered from the petitioner he is in custody for four years and eight months and trial has not yet concluded. Delay in the matter is not attributable to the defence. Under such circumstances, we are of the view 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***<sup>1</sup>.

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-Additional District and Sessions Judge, 3<sup>rd</sup> Court, Asansol, subject to conditions that he 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 he 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.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**

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<sup>1</sup> (2023) SCC Online SC 1109