

16.05.2024

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Allowed

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M. (NDPS) No. 210 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Siliguri Police Station Case No. 678 of 2022 dated 15.07.2022 under Sections 21(c)/22(c) of the N.D.P.S. Act.

And

In Re : Bikash Kumar Sahani petitioner

Mr. Arunava Paul

.... for the petitioner

Mr. Abhijit Sarkar

Mr. Anirudha Biswas

.... for the State

1. Report submitted in Court is placed on record. No prosecution witness has been examined till date.

2. Heard the learned Counsels for the parties.

3. We have considered the materials on record. Petitioner is in custody for one year and nine months. Though 50 bottles of phensedyl syrup containing narcotics which is above commercial quantity was recovered from the petitioner and co-accused we note trial has not progressed with adequate expedition. Delay in trial has infringed the petitioner's fundamental right to speedy justice under Article 21 of the

Constitution of India. 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, Siliguri, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109