

16.05.2024

11
sdas
Allowed

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M. (NDPS) No. 214 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalpaiguri Police Station Case No. 101 of 2023 dated 10.02.2023 under Sections 21(c)/22(c)/23(c)/29 of the N.D.P.S. Act.

And

In Re : Shiba Chakraborty petitioner

Mr. Supritam Nag
Ms. Trishna Roy
Mr. Arko Sarkar

.... for the petitioner

Mr. Nilay Chakraborty, learned APP
Mr. Sourav Ganguly

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than 457 days. It is also submitted there is slow progress in trial. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits charge has been framed but no witness has been examined till date.

3. We have considered the materials on record. Though 300 grams of brown sugar i.e. Heroin was recovered petitioner is in custody for a considerable period of time. Prosecution has not examined any witness. Petitioner is not responsible for the delay. Prosecution proposes to examine

twelve witnesses. There is no possibility of trial concluding in the near future. Under such circumstances, fundamental right to speedy justice of the petitioner has been infringed 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-cum-learned Additional Sessions Judge, 1st court, Jalpaiguri, 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

