

24.02.2021
Item no.08
Court No.28
Avijit Mitra

C.R.M.427 of 2021 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Tamluk Police Station Case No.379 of 2018 dated August 27, 2018 under Sections 20(b)(ii) c/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

And

In Re : Subrata Guchhait & anr.

.... petitioners

Mr. K.C. Das,
Sk. Sahjahan Ali

....for the petitioners

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Maity

..... for the State

Mr. Das, learned advocate appearing for the petitioners submits that the petitioners are renewing their prayer for bail which was earlier rejected by an order dated 18th November, 2020 as contraband substance above commercial quantity was recovered from the possession of the petitioners.

He further submits that upon completion of investigation charge sheet has been submitted. The petitioners are already in custody for more than 2 years 7 months. Out of 12 witnesses none have been examined till date and as such, there is no possibility of conclusion of trial in the near future. Deprivation of personal liberty without ensuring speedy trial would not be in consonance with the right guaranteed by Article 21 of the Constitution of India and on the basis of alleged recovery of contraband substances, the petitioners cannot be kept under custody for an indefinite period of time.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioners' prayer and submits that the delay which has occasioned is not totally attributable to the prosecution.

Heard the learned advocates and considered the materials in the case diary.

While exercising discretion, the Court is required to maintain a balance between personal liberty and the interest of the society. It is true that there had been a delay towards conclusion of trial but such period of delay stands intervened by a period lost due to the pandemic. The fact that the contraband substance above commercial quantity was recovered from the possession of the petitioners cannot also be totally ignored. However, steps must be taken by the investigating officer, the Public Prosecutor and the Trial Court for expediting the trial.

In the said conspectus, though we are rejecting the petitioners' prayer for bail at this stage, they would be at liberty to approach this Court if within a period of three months there is no substantial progress in the trial.

Accordingly, the application being C.R.M. No. 427 of 2021 is disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)