

CRM 4665 of 2021

In re : An application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Serampore Police Station Case No. 541 of 2013 dated 05.12.2013 under Sections 20(c)/29 of the NDPS Act.

In the matter of : **Dipu Roy @ Apu & Anr.**

..... petitioners

**Mr. Sudip Ghosh Chowdhury
Mr. Argha Das
Mr. Abhishek Bose**

....For the petitioners

**Mr. Sudip Ghosh
Mr. Bitasok Banerjee**

....For the State

Insofar as the petitioner no. 1 is concerned, there are four earlier rejections of his prayer for bail. Insofar as petitioner no. 2 is concerned, there are five earlier rejections of his prayer for bail.

The petitioners are renewing their prayer. They say that they are in custody for more than five years. Nobody can say when the trial is going to conclude. They rely on the decision of the Hon'ble Supreme Court in the case of "*Supreme Court Legal Aid Committee representing undertrial prisoners Vs. Union of India & Ors.*" reported in 1994 3 Crimes (SC) 644.

We have considered the aforesaid decision of the Hon'ble Supreme Court. In our understanding that does not lay down any proposition of law that irrespective of facts of the case, whenever an undertrial is in custody for more than five years, he, as a matter of course, has to be enlarged on bail.

The trial in this case is in progress. There are several rejections of the prayers of the petitioners.

Moreover, in view of the restriction in Section 37 of the NDPS Act since commercial quantity of contraband is alleged to have

been recovered from the possession of the petitioners, we are not inclined to entertain the present application for bail.

However, in view of the very long detention of the petitioners, we request the learned trial Court to make all efforts to expedite the trial and bring the same to its logical conclusion as soon as possible and preferably within a period of one year from date.

The application for bail is, accordingly, dismissed.

All parties shall act upon the server copy of this order duly downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)