

CRM 5597 of 2021
(via video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Subrata Guchhait & Anr.

.....Petitioners

Mr. Jayanta Naryan Chatterjee
Mr. Shahajahan Ali
Ms. Nandini Chatterjee
Mr. Supreem Naskar
Ms. Sreeparna Das

.....for the Petitioners

Mr. Sanjoy Bardhan
Ms. Baishakhi Chatterjee

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Tamlum P.S. Case No. 379 of 2018 dated August 27, 2018 under Section 20(b)(ii)c/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the petitioners are languishing in custody for more than three years and eight months. Charges have framed on 5th February, 2019 but there had been no progress in the trial. The petitioners earlier bail application was refused on 24th February, 2021 with a direction to expedite the trial and with liberty to approach this Court if within a period of three months there is no substantial progress in the trial. In spite of such direction there had been no progress.

He further argues that deprivation of personal liberty without ensuring speedy trial would not be in consonance with the right guaranteed under Article 21 of the Constitution of India and in the said conspectus, further detention of the petitioners is not warranted.

Mr. Bardhan, learned advocate appearing for the State submits that the statutory restrictions are attracted in the present case as the matter pertains to recovery of contraband substance above commercial quantity.

Pursuant to an earlier direction, a report has been placed before us. Placing reliance upon the same, Mr. Bardhan submits that the delay which has occurred is not totally attributable to the State. A substantive period of time was lost due to the prevailing pandemic situation. Let the report, as produced, be kept on record.

From the report it appears that PW1 was not present before the learned Court below on 16th September, 2021, 28th September, 2021 and 9th November, 2021. Prior thereto, the matter was adjourned on 19th May, 2021 and 25th June, 2021 since the learned advocates abstained from working due to the pandemics. On 25th August, 2021 and on 16th September, 2021, PW1 was not present and as such, bailable warrant was issued. It is a fact that the learned Court below was functioning in a restricted manner due to the prevailing pandemic situation.

From the above factual scenario, it appears that there had been no substantial progress in the trial after the earlier order passed on 24th February, 2021. However, the delay is also not totally attributable to the State.

In the said conspectus, we are not inclined to allow the petitioners' prayer for bail at this stage moreso when the statutory restrictions are attracted in view of recovery of contraband substance above commercial quantity.

However, this Court directs the learned Court below to expeditiously conduct the trial and if necessary, upon resorting to steps available under Section 309 of the Code so that logical conclusion of the case may be reached at the earliest preferably within a period of eight months from the date of the communication of this Court.

Registrar (Administration) is directed to communicate this order to the learned Court below immediately.

The application being CRM 5597 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)