

02.03.2022
Item No.178
Court No.32
ss

C.R.M. 6288 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure Code.

And

In Re: Soumik Mukherjee & anr.

... Petitioners.

Mr. Sabyasachi Banerjee
Mr. Bikram Mitra
Ms. Nahid Ahmed

... for the Petitioners.

Mr. Sanjay Bardhan
Mr. Palash Chandra Majhi

... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Burtolla P.S. Case No. 99 of 2018 dated 22.6.2018 under Sections 22(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Banerjee, learned Advocate appearing for the petitioners submits that the petitioner no.1 and the petitioner no.2 are languishing in custody for 2 years 6 months and 2 years 9 months, respectively and there is no possibility towards conclusion of the trial in the near future. 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. In spite of earlier directions towards expeditious conclusion of the trial, there had been no progress. In the said conspectus, further detention of the petitioners may not be necessary and they may be enlarged on bail on any stringent condition. In

support of such contention, he has placed reliance upon a judgement delivered by the Hon'ble Supreme Court in the case of Chitta Biswas alias Subhas Vs. The State of West Bengal.

Per contra, Mr. Bardhan, learned Advocate appearing for the State submits that the delay which has occurred is not totally attributable to the State. Furthermore, such period of delay stands intervened by a period lost due to pandemic.

Answering to our query, Mr. Bardhan submits that there are 11 witnesses and next schedule for evidence has been fixed on and from 6th April to 8th April, 2022. Records reveal that contraband substance above commercial quantity was recovered from the possession of the petitioners and other two co-accused persons and as such, the statutory restrictions are clearly attracted. In view thereof, the petitioners' prayer for bail is refused at this stage.

However, the learned Court below is directed 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 six months from the date of communication of this order.

The application CRM 6288 of 2021 is, accordingly, dismissed.

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.)