

02.02.2023
Sl. No.13
akd
[ALLOWED]

C. R. M. (NDPS) 150 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.01.2023 in connection with Jiaganj Police Station Case No. 15 of 2019 dated 06.01.2019 under Sections 20/29 of the NDPS Act. (NDPS Case No.25 of 2019)

And

In Re: ***Akash Biswas @ Anku & Anr.***

... .. Petitioners

Mr. Arnab Chatterjee
Mr. Jisan Iqbal Hossain

... .. for the petitioners

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for more than four years. It is further submitted there is inordinate delay in trial. Five out of eleven witnesses have been examined.

Learned Advocate for the State opposes the prayer for bail and submits prayer for bail of the petitioners was rejected in March, 2022.

We have considered the materials on record. Petitioners are in custody for more than four years. Only five witnesses have been examined till date. After rejection of bail by this court in March, 2022, only one witness has been examined. Progress of trial in the matter is extremely tardy and the petitioners are not responsible for the same. Accordingly, we are inclined to grant bail to the petitioners on the ground of delay alone. It is apposite to note bail prayer on the ground of delay is not fettered under Section 37 of the NDPS Act.

Therefore, the accused/petitioners, namely **(1) Akash Biswas @ Anku & (2) Mahamadul Hossain**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act, Berhampore, Murshidabad subject to condition that the said petitioners 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 or commit similar offences in future.

In the event they fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)