

02.02.2023.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 153 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.193 of 2019 arising out of Nabagram P. S. Case No.336 of 2019 dated 11.10.2019 under Sections 20/29 of the NDPS Act.

In the matter of : Nur Islam Sk. & Anr.

.... Petitioners.

Mr. Arnab Chatterjee,
Mr. Jishan Hossain.

...for the Petitioners.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh.

...for the State.

Petitioners are in custody for more than three years. It is submitted there is inordinate delay in trial. They pray for bail.

Learned Advocate for the State opposes the bail prayer. He submits delay was due to the pandemic condition.

We have considered the materials on record. Charge was framed in 2020. Even if one discounts the fact pandemic was prevailing in 2020-2021, it is inexplicable why only two witnesses have been examined till date. Nothing is placed on record to show the petitioner has attributed to the delay.

In view of the aforesaid circumstances, we are of the opinion petitioners have been able to demonstrate that their fundamental right to speedy trial under Article 21 of the Constitution of India has been infringed and they are entitled to get bail on such score. Bail prayer of the petitioners on the score of delay is not fettered by Section 37 of the NDPS Act.

Accordingly, the petitioners viz., Nur Islam Sk. and Manu Sk. shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under N.D.P.S. Act, Murshidabad at Berhampore subject to condition that they 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.

In the event the petitioners fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)