

10.02.2023

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Allowed

C.R.M. (NDPS) No. 173 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 15/NCB/Kol/2019 dated 22.08.2019 arising out of NDPS Case No. 156 of 2019 under Section 8(c) read with Sections 21(c)/28/29 of the N.D.P.S. Act.

And

In Re : Rinku Sekh @ Sk. & Anr. .... petitioners

Mr. Jisan Hossain  
Ms. Chandrima Debnath  
Mr. Karnel Mondal

.....for the petitioners

Mr. Kallol Mondal  
Mr. Pradyat Saha

.....for the NCB

Learned Counsel for the petitioners submits they are in custody for more than three years. It is also submitted that there is inordinate delay in trial.

Learned Counsel for the NCB submits report.

From the report it appears charge was framed in 2020. Thereafter only one witness has been examined till date. It is true that cross-examination of the said witness was dragged for more than six months. Thereafter in the two subsequent schedules no prosecution witness has been produced. There is inordinate delay in trial which is substantially contributed by the prosecution. Keeping in mind the aforesaid circumstances particularly the protracted period of detention suffered by the petitioners and as there is little possibility of the trial

concluding in the near future, we are inclined to grant bail to the petitioners. Bail prayer on the ground of delay is not fettered by Section 37 of the NDPS Act.

Accordingly, we direct that the petitioners 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 NDPS Act, Berhampore, Murshidabad, subject to conditions 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 they 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.

The application for bail is, accordingly, allowed.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**