

12.10.2023

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Allowed

C.R.M. (NDPS) No. 220 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sagardighi Police Station Case No. 5 of 2020 dated 06.01.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Ajijul Sk. & Anr. petitioners

Mr. S. Das Mahapatra

Mr. Jishan Iqbal

Ms. Chandrima Debnath

....for the petitioners

Mr. Ranabir Roy Choudhury

Mr. Sandip Chakraborty

....for the State

1. Learned Counsel for the petitioners submits they are in custody for more than three years. In spite of direction given by this Court in August, 2022 to conclude trial at an early date no prosecution witness has been examined. They pray for bail on the ground of delay in trial.

2. Learned Counsel for the State opposes the prayer for bail and submits seven litres of codeine mixture was recovered from the possession of the petitioners. Chemical examiner's report has been filed before the trial court.

3. We have considered the materials on record. Though petitioners are in custody for more than three years, no prosecution witness has been examined. Witness warrant was issued to ensure their attendance. This shows callous indifference on the part of the prosecution to ensure speedy

trial. Under such circumstances we are constrained to hold petitioners have been able to make out a case of infraction of their fundamental right to speedy trial and they are entitled to bail on this score. Accordingly, we are inclined to grant bail to the petitioners.

4. 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, Murshidabad, subject to conditions that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

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

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)