

17.02.2023
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allowed

CRM(NDPS) No. 291 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 69 of 2020 dated 24.01.2020 under Section 21(c) read with Section 29 of the NDPS Act.

And

In Re : Subrata Mandal & Anr. petitioners

Mr. Sobhendu Sekhar Roy
Mr. Amarendra Chakraborty
Mr. Argha Banerjee

.....for the petitioners

Mr. Ranadeb Sengupta

..... for the State

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

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. Petitioners are in custody for more than three years. Only one witness has been examined in part. Delay cannot be attributed to the petitioners. Under such circumstances we are constrained to hold the fundamental right to speedy trial of the petitioners has been infringed and they are entitled to bail on this score. Bail prayer of the petitioners on the ground of inordinate delay is not fettered by Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioners.

Accordingly, we direct that the petitioners namely 1) Subrata Mandal and 2) Sushil Mandal 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, ADJ, 4th Court, Malda, subject to conditions that they 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.

In the event the petitioners fails 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.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)