

17.02.2023
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allowed

CRM(NDPS) No. 293 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 06/NCB/KOL/2018 under Section 8(c) read with Section 21(c)/29/30 of the NDPS Act.

And

In Re : Chhalauddin Biswas @ Shanti & Anr. petitioners

Mr. Ashok Das
Mr. Amanul Islam
Mr. Sourav Mukherjee

.....for the petitioners

Mr. Kallol Basu
Mr. Uttam Basak

..... for the NCB

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

Learned Counsel for the NCB opposes the prayer for bail and submits trial is in progress. Two witnesses have been examined.

We have considered the materials on record. Though petitioners are in custody for more than five years only two witnesses have been examined. Perusal of the record does not show petitioners have contributed to the delay. Under such circumstances we are of the opinion 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) Chhalauddin Biswas @ Shanti and 2) Habibur Seikh 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, Krishnagar, Nadia, on further conditions that while on bail the petitioners shall remain within the jurisdiction of Kaliaganj Police Station until further orders and shall report to the Kaliaganj Police Station concerned once in a week until further orders. 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 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.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)