

03.04.2023
Sl. No.2
akd
[ALLOWED]

C. R. M. (NDPS) 500 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.03.2023 in connection with NCB Crime No.35/NCB/KOL/2016 dated 09.09.2016 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Kajal Ghosh & Anr.***

... .. Petitioners

Mr. Uday Sankar Chattopadhyay
Ms. Trisha Rakshit
Mr. Rajashree Tah

... .. for the petitioners

Mr. Dipankar Dandapath
Mr. Subrata Santra

... .. for the NCB

Petitioners renew their prayer for bail. It is submitted on behalf of the petitioners that they are in custody for more than six years. It is further submitted there is inordinate delay in trial.

Learned Advocate for the NCB opposes the prayer for bail and submits 25 kgs. of *Ganja* was recovered from the petitioners. Trial is in progress.

We have considered the materials on record. Though allegations are grave and involve possession of narcotics above commercial quantity, we note there is very slow progress in trial. Petitioners are in custody for more than six years. Only one witness has been examined in part. Prosecution proposes to examine nine witnesses. There is little possibility of the trial concluding in near future. Under such circumstances, we are of the opinion petitioners have been able to make out a case of breach of fundamental right to speedy trial and they are entitled to bail on this score. Bail prayer on the ground of

inordinate delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

Therefore, the petitioners, namely **(1) Kajal Ghosh & (2) Seikh Atabul**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special 3rd Court, under the NDPS Act, Purba Bardhaman subject to condition that the said petitioners 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 or commit similar offences in future and on further condition that the petitioners, while on bail, shall not leave the jurisdiction of the district of Purba Bardhaman and shall report to the Officer-in-charge, Burdwan Police Station once in a week until further orders.

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 automatically without reference to this court.

The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)