

10.04.2023.
15.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 682 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.12 of 2019 arising out of Maidan P. S. Case No.26 of 2019 dated 02.04.2019 under Sections 20(b)(ii)(C) of the NDPS Act.

In the matter of : Asidul Sardar & Anr.

.... Petitioners.

Mohammad Khairul,
Mohammad Irfan.

...for the Petitioners.

Mr. Sanjoy Bardhan,
Ms. Debjani Dasgupta.

...for the State.

Petitioners are in custody for more than four years. He submits there is inordinate delay in trial. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits delay was due to vacancy in the trial court.

We have considered the materials on record. Petitioner was arrested in April, 2019 and charge was framed on 6th December, 2019. In spite of passage of more than three years, only one witness has been examined till date. We have also taken into consideration the Covid pandemic prevailing in 2021 and that there was vacancy in the trial court for some period. However, delay is not attributable to the petitioner. Prosecution proposes to examine eight witnesses and there is little possibility of trial concluding in the near future.

Under such circumstances, we are of the opinion fundamental right to speedy trial of the petitioners has been

infracted in factual matrix of the case and they are entitled to bail on this score.

Accordingly, the petitioners viz., Asidul Sardar and Akibul Sardar 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, Bench-I (NDPS Act), City Sessions Court at Calcutta subject to condition 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 and on further condition that the petitioners while on bail shall remain within the District of South 24-Paraganas except for attending court proceeding and report to the Officer-in-charge, Baruipur Police Station once in a week until further orders.

In the event the petitioners 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.

This application for bail is, thus, disposed of.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)