

25.04.2023.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 782 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.207 of 2020 arising out of Murshidabad P. S. Case No.426 of 2020 dated 10.09.2020 under Sections 21(c)/29 of the NDPS Act and charge sheet submitted under Sections 20(b)(ii)(c) of the NDPS Act.

In the matter of : Prasenjit Mandal @ Prasen & Anr.
.... Petitioners.

Mr. Tapodip Gupta.
...for the Petitioners.

Mr. Ranadeb Sengupta.
...for the State.

Petitioners are in custody for more than two years and seven months. They submit there is delay in trial. They pray for bail.

Learned Advocate for the State opposes the bail prayer. He submits report.

We have considered the materials on record including the report. Though petitioners are in custody for more than two and half years, charge was framed in January, 2022 and only one out of 13 witnesses have been examined. Delay in trial is self-evident and cannot be attributed to the petitioners.

Under such circumstances, we are of the opinion fundamental right of the petitioners to speedy justice has been infringed and they are entitled to bail on this score. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Hence, they may be enlarged on bail.

Accordingly, the petitioners viz., Prasenjit Mandal @ Prasen and Sugrib Sarkar 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 the NDPS Act-cum-Additional District Judge, 2nd Court, Berhampore, Murshidabad 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.

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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)