

24.04.2023.
27.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 852 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.125 of 2020 arising out of Raninagar P. S. Case No.179 of 2020 dated 09.05.2020 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Md. Year Ali & Anr.

.... Petitioners.

Mr. Tapodip Gupta.

...for the Petitioner.

Mr. Antarikhya Basu.

...for the State.

Petitioners are in custody for about three years. They submit there is inordinate delay in trial. They pray for bail.

Learned Advocate for the State opposes the bail prayer. He submits one witness has been examined.

We have considered the materials on record. Though petitioners are in custody for about three years, there is slow progress in trial. Only one out of 13 witnesses has been examined. There is little possibility of trial concluding in the near future. Delay in the matter cannot be attributed to the petitioners.

Under such circumstances, we are constrained to observe slow progress in trial has infringed the fundamental right of the petitioners to speedy justice 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., Md. Year Ali and Mukul Sk. @ Amirul Islam 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, Murshidabad at Berhampore 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.)