

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

C.R.M. (NDPS) 853 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.15 of 2020 arising out of Burwan P. S. Case No.17 of 2020 dated 15.01.2020 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Abdullah Khan & Anr.

.... Petitioners.

Mr. Tapodip Gupta.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Baishakhi Chatterjee.

...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 delay was due to systemic reasons i.e. vacancy in trial court, cessation of work etc.

We have considered the materials on record. Petitioners are in custody for about three years. Till date no witness has been examined. Delay in the trial cannot be attributed to the petitioners. In the event of judicial vacancy, no prayer was made by the prosecution to expedite the trial and record evidence by the Judge-in-charge.

Under such circumstances, we are constrained to observe that delay 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., Abdullah Khan and Salman Khan 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.)