

15.05.2023
Sl. No.15
akd
[ALLOWED]

C. R. M. (NDPS) 972 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.05.2023 in connection with Maidan Police Station Case No.05 of 2020 dated 10.01.2020 under Sections 20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.06 of 2020)

And

In Re: ***Jahirul Sk. & Ors.***

... .. Petitioners

Mr. Soumyajit Das Mahapatra
Md. Golam Nure Imrohi

... .. for the petitioners

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for about three years and five months. It is further submitted there is inordinate delay in trial. Accordingly, they pray for bail.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. Charge was framed in February, 2021. Though petitioners have suffered incarceration for a protracted period of time, only one witness has been examined till date. Prosecution proposes to examine seven witnesses. There is little possibility of trial concluding in the 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) Jahirul Sk., (2) Tapan Sk. & (3) Kamal Hossain**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) only, 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, Bench-I, City Sessions Court, Calcutta 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.

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.)