

31.07.2023.
05.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1300 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.146 of 2020 arising out of Rajarhat P.S. Case No.240 of 2020 dated 24.07.2020 under Sections 21(c) of the NDPS Act.

In the matter of : Md. Hussain @ Chandbabu & Anr.
.... Petitioners.

Mr. Susnigdho Bhattacharyya.
...for the Petitioners.

Mr. Saibal Bapuli, Id. A.P.P.,
Mr. Arani Bhattacharyya.
...for the State.

Petitioners are in custody for over three years He submits there is delay in trial. He prays for bail.

Learned Advocate for the State submits report. He contends four witnesses have already been examined.

We have considered the materials on record. 9.6 ltrs. of codeine phosphate was recovered from the joint possession of the petitioners and another co-accused. Four out of eight witnesses have been examined. Delay in the matter cannot be attributed to the petitioners. There is little possibility of trial concluding in the near future.

Under such circumstances, we are constrained to hold the delay in trial has infringed their fundamental right 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. They may be enlarged on bail.

Accordingly, the petitioners viz. Md. Hussain @ Chandbabu and Sajjad Ali 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, Barasat, North 24-Paraganas 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)