

27.07.2023
Sl. No.8
akd
[ALLOWED]

C. R. M. (NDPS) 1314 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.07.2023 in connection with Malda Police Station Case No.359 of 2020 dated 29.06.2020 under Sections 21(c)/29 of the NDPS Act read with Section 18(b)/27 of the Drugs and Cosmetics Act, 1940.

And

In Re: ***Jagnu Mahanta & Anr.***

... .. Petitioners

Mr. Avinaba Patra

... .. 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 more than three years. It is further submitted there is hardly any progress in the matter since the rejection of bail by this court. Accordingly, they renew their for bail.

Learned Advocate for the State opposes the prayer for bail and submits narcotics i.e. 10,000 bottles of *phensedyl syrup* was recovered from a vehicle where the petitioners were present. Their bail prayer had been rejected earlier on merits.

We have considered the materials on record. Bail prayer of the petitioners had been rejected on merits in 2021. However, there is no progress in the matter since then. We are informed charge has not been framed as yet. Petitioners are in custody for more than three years. Delay in the matter cannot be attributed to the petitioners. Under such circumstances, we are of the opinion petitioners have been able to make out a case of breach of their 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) Jagnu Mahanta & (2) Krishna Haldar**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) 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 & Sessions Judge, 3rd Court, Malda 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.)