

02.08.2023
Sl. No.13
akd
[ALLOWED]

C. R. M. (NDPS) 1349 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.07.2023 in connection with Hariharpara Police Station Case No.124 of 2021 dated 29.03.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.58 of 2021)

And

In Re: ***Sujan Mondal & Anr.***

... .. Petitioners

Mr. Tapodip Gupta

... .. 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 two years and four 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 and submits four witnesses have been examined.

We have considered the materials on record. Petitioners are in custody for more than two years. Only four witnesses have been examined till date. Prosecution proposes to examine twenty witnesses. There is little possibility of the trial concluding in the near future. 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. Reference in this regard may be made to ***Rabi Prakash vs. The State of Odisha***¹.

¹ SLP (Crl) No. 4169 of 2023. Order dated 13.07.2023

Therefore, the petitioners, namely **(1) *Sujan Mondal* & (2) *Parthana Mondal***, 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 Judge, 5th Court, Berhampore, Murshidabad 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)