

22.08.2023.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1426 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.29 of 2021 arising out of Seizure Case No.02/NDPS/CL/CUS/BCPU/2020-21 dated 12.02.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

In the matter of : Lalchand Sk. & Ors.

.... Petitioners.

Mr. Arnab Chatterjee,
Mr. Anisur Rahaman,
Ms. Dhanasree Biswas,
Ms. Poulami Bose.

...for the Petitioners.

Mr. Kaushik Dey,
Mr. Tapan Bhanja.

...for the UOI.

1. Petitioners are in custody for more than two years. They submit there is inordinate delay in trial. They pray for bail
2. Learned Advocate for the UOI/Customs submits charge has been framed.
3. We have considered the materials on record. Though petitioners are in custody for a protracted period of time, there is slow progress in trial. Only charge has been framed and no witness has been examined.
4. Under such circumstances, we are constrained to hold petitioners have made out a case of breach of their fundamental right to speedy trial and they may be 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.

5. Accordingly, the petitioners viz., Lalchand Sk, Furkan Sk and Asraful Sk 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-cum-Additional District Judge, 5th Court, 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 and on further condition that the petitioners while on bail shall remain within the district of Murshidabad and report to the concerned Officer-in-charge once in a week until further orders.

6. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Rai Chattopadhyay, J.)

(Joymalya Bagchi, J.)

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

