

27.09.2023
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allowed

CRM (NDPS) No. 1602 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 43/NCB/Kol/2017 dated 17.07.2017 under Sections 20(b)(ii)(C)/29 of the NDPS Act.

And

In Re : Rajindar Das & Anr. petitioners

Mr. Uday Sankar Chattopadhyay
Mr. Rajashree Tah
Ms. Trisha Rakshit
Ms. Aishwarya Datta

.....for the petitioners

Mr. Kallol Kumar Basu
Mr. Debapriya Samanta

..... for the NCB

1. Learned Counsel for the petitioners submits they are in custody for more than six years. It is also submitted there is slow progress in trial. Only three witnesses have been examined. They pray for bail.

2. Learned Counsel for the NCB submits report. Let the report be kept on record. It is submitted that delay was due to deferment of cross-examination of the witnesses.

3. We have considered the materials on record. Petitioners are languishing in jail for more than six years. Even if one concedes that some delay was caused on the score of deferment of cross-examination of witnesses inordinate time taken by the prosecution to examine the witnesses cannot be

ignored. Till date only three witnesses have been examined. Under such circumstances, we are of the opinion continued detention of the petitioners would amount to violation of fundamental right to speedy trial under Article 21 of the Constitution of India and they may be enlarged on bail on this score.

4. Accordingly, we direct that the petitioners 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 Additional Sessions Judge, 3rd Special Court under NDPS Act, Purba Bardhaman, subject to further condition that while on bail the petitioners shall report to the investigating officer once in a week until further orders. They shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

