

17.10.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1663 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.10.2023 in connection with Narayanpur Police Station Case No.73 of 2020 dated 14.08.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Parvej Alam & Anr.***

... .. Petitioners

Mr. Debasis Kar

... .. for the petitioners

Mr. Sanjay Bardhan
Ms. Debjani Dasgupta

... .. for the State

1. It is submitted on behalf of the petitioners that they are in custody for over three years and two months. It is further submitted there is inordinate delay in trial. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. Though petitioners are in custody for more than three years, only one out of nine witnesses has been examined till date. This shows very poor progress in trial. 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 2023 SCC OnLine SC 1109

4. Therefore, the petitioners, namely **(1) Parvej Alam & (2) Hakim Ali Khan**, 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, Barrackpore, North 24-Parganas 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.
5. 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.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)