

19.10.2023
Sl. No.3
akd
[ALLOWED]

C. R. M. (NDPS) 1681 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 09.10.2023 in connection with NDPS Case No.87 of 2021 arising out of NCB Crime No.16/NCB/KOL/2021 under Sections 8(c)/22(c)/23(c)/29 of the NDPS Act.

And

In Re: ***Srimanta Das & Anr.***

... .. Petitioners

Mr. Soumik Ganguli
Mr. Pradip Kumar Kundu

... .. for the petitioners

Mr. Arun Kumar Maiti
Mr. Mayukh Mukherjee

... .. for the NCB

1. It is submitted on behalf of the petitioners that they are in custody for more than two years and four months. It is further submitted there is inordinate delay in trial. Accordingly, they pray for bail.
2. Learned Advocate for the NCB submits report.
3. We have considered the materials on record. Though petitioners are in custody for a protracted period of time, only one out of seven witnesses has been examined till date. Progress in trial is not appreciable. 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) *Srimanta Das* & (2) *Memari Ajam***, 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 Chief Judicial Magistrate, Murshidabad at Berhampore 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 and on further condition that the petitioners, while on bail, shall remain within the district of Murshidabad until further orders.
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.)