

C. R. M. (NDPS) 1814 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 Titagarh Police Station Case No.643 of 2019 dated 09.10.2019 under Section 21(c) of the NDPS Act.

And

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

... .. Petitioners

Mr. Debasis Kar

... .. for the petitioners

Ms. Faria Hossain
Ms. Pritha Paul

... .. for the State

1. It is submitted on behalf of the petitioners that they are in custody for more than four years. It is further submitted no witnesses have been examined till date. Accordingly, they pray for bail on the ground of inordinate delay in trial.
2. Learned Advocate for the State opposes the prayer for bail and submits bail prayer of the petitioners was rejected in March, 2023.
3. We have considered the materials on record. Inspite of direction for expediting trial, no witness has been examined till date. This exposes indifference on the part of the prosecution to conduct trial with expedition. 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) Sanjay Das & (2) Sk. Chottu**, 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.)