

**29.11.2023.**  
**14.**  
**Ct.No.28.**  
**as**  
**(Allowed)**

**C.R.M. (NDPS) 1889 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N. Case No.17 of 2020 arising out of New Barrackpore P. S. Case No.67 of 2020 dated 24.02.2020 under Section 21/29 of the NDPS Act.

In the matter of : **Dinesh Singh Rana & Anr.**

.... Petitioners.

Mr. Arunava Ganguly.

...for the Petitioners.

Mr. Anand Keshari.

...for the State.

1. Petitioners are in custody for more than three years. He contends there is slow progress in trial. They pray for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits report. He contends delay was due to non-availability of the Judge in the Trial Court.
3. We have considered the materials on record. Petitioners are in custody for more than three years. Only four out of eleven witnesses have been examined. It is true on some dates the Trial Judge was absent but it does not absolve prosecution from proceeding with the matter with expedition. Petitioner has suffered incarceration for a considerable period of time and there is no possibility of trial concluding in the near future.
4. 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 delay in trial is not fettered by restrictions under Section 37 of the NDPS Act.

5. Accordingly, the petitioners viz., **Dinesh Singh Rana and Nityananda Kirtaniya** 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, Barrackpore, North 24-Paraganas 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.

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

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

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**