

29.11.2023.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1888 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.40 of 2022 arising out of Kaliachak P. S. Case No.241 of 2022 dated 05.03.2022 under Section 21(c)/29 of the NDPS Act.

In the matter of : **Jahangir Alam & Anr.**

.... Petitioners.

Mr. Navanil De,
Mr. Mazahar Hossain Chowdhury.

...for the Petitioners.

Mr. Ranadeb Sengupta.

...for the State.

1. Petitioners are in custody for more than one year and eight months. They submit there is delay in trial. They pray for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. Though allegation involves recovery of narcotics above commercial quantity i.e. 690 bottles of phensedyl syrup, we note only one out of eight witnesses has been examined. There is little 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., **Jahangir Alam and Habibur Rahaman** 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, 3rd Court, Malda 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.)