

19.12.2023.
31.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1975 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.39 of 2020 arising out of NCB Crime No.14/NCB/KOL/2020 under Sections 20(b)(ii)(C)/29 of the NDPS Act.

In the matter of : **Biswajit Halder & Ors.**

.... Petitioners.

Mr. Sandipan Ganguly, Id. Sr. Adv.,
Mr. Karan Dudhwewala,
Mr. M. Pandey.

...for the Petitioners.

Mr. Krishnendu Bhattacharya
Mrs. R. Chakraborty.

...for the UOI.

1. Petitioners are in custody for three years and five months. In spite of direction given by this Court in November, 2022, trial has not progressed. They pray for bail.
2. Learned Advocate for UOI opposes the bail prayer. He contends one witness has been examined in part. Delay was due to circumstances beyond the control of the prosecution.
3. We have considered the materials on record. Petitioners are in custody for more than three years. Trial has proceeded at a tardy pace and only one witness has been examined. Though it is contended delay was due to circumstances beyond the control of prosecution, it is undeniable petitioners had not contributed to the delay and there is little possibility of trial concluding in the near future.
4. Under such circumstances, we are of the view that the slow progress has infringed the fundamental right to speedy

trial of the petitioners 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 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, 24-Paraganas, North 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.

8. Trial Court is requested to expedite the trial and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)