

**In the High Court at Calcutta
Circuit Bench At Jalpaiguri**

03.03.2023
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allowed

CRM (NDPS) No. 242 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalpaiguri Kotwali Police Station Case No. 149 of 2020 dated 27.02.2022 under Sections 20(ii)(c)/25/29 of the NDPS Act.

And

In Re : Jitendra Kumar & Anr. petitioners

Mr. Biswarup Roy

.....for the petitioners

Mr. Abhijit Sarkar

Mr. Dhiman Sil

..... for the State

Learned Counsel for the petitioners submits they are in custody for more than three years. It is also submitted there is inordinate delay in trial. Supplementary affidavit is filed in support of such plea. They renew their prayer for bail.

Learned Counsel for the State opposes the prayer for bail and submits 211.391 kgs. of Ganja was recovered from the petitioners.

We have considered the materials on record. Petitioners are in custody for more than three years. There is no possibility of trial concluding in near future. Accordingly, we are constrained to hold petitioners have made out a case of infraction of their fundamental right to speedy trial. Bail prayer of the petitioners on such ground

is not fettered under Section 37 of the NDPS Act and we are inclined to grant bail to them.

Accordingly, we direct that 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 NDPS Act, Jalpaiguri, subject to the further conditions that the petitioners while on bail shall remain within the jurisdiction of district Jalpaiguri and shall report to the officer-in-charge of Kotwali Police Station once in a week until further orders and shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)