

**In The High Court At Calcutta
Circuit Bench At Jalpaiguri**

03.03.2023
3
sdas
allowed

CRM No. 437 of 2021
with
CRAN 1 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kotwali Police Station Case No. 364 of 2020 dated 09.06.2020 under Sections 20(ii)(c)/25/29 of the NDPS Act.

And

In Re : Amjad Khan & Anr. petitioners

Mr. Anirban Banerjee
Mr. Biswajit Das

.....for the petitioners

Mr. Aditi Shankar Chakraborty, learned APP
..... for the State

Learned Counsel for the petitioners submits they are in custody for more than two years and nine months. It is also submitted chemical examiner's report has not been filed. There is delay in trial.

Learned Counsel for the State opposes the prayer for bail and submits date has been fixed for consideration of charge.

We have considered the materials on record. Though petitioner is in custody for about three years, CFSL report has not yet been received. We are of the opinion consideration of the CFSL report is a *sine qua non* for framing of charge. Under such circumstances and in view of protracted period of detention

suffered by the petitioners which infracts their fundamental right to speedy trial we are inclined to grant bail to them. It may be pertinent to observe that bail prayer on the ground of inordinate delay in progress of trial is not fettered by restrictions under Section 37 of the NDPS Act.

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 condition that the petitioners 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.

Connected application, if any, is also disposed of.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)