

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

03.03.2023

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rejected

C.R.M. No. 981 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 867 of 2020 dated 23.07.2020 under Section 20(b)(ii)(c)/23(c) of the NDPS Act.

And

In Re : Ramesh Kumar & Anr. petitioners

Mr. Biswarup Roy

... for the petitioners

Mr. Aditi Shankar Chakraborty, learned APP

... for the State

Learned Counsel for the petitioners submits they are in custody for two years and seven months. It is also submitted police report was filed after expiry of one year. Accordingly, they are entitled to statutory bail.

Learned Counsel for the State opposes the prayer of bail and submits supplementary charge-sheet enclosing chemical reports has already been filed and date has been fixed for consideration of charge.

We have considered the materials on record. Petitioners were arrested on 24.07.2020. After expiry of 180 days, their detention was extended on 15.01.2021 for a further period of 90 days and thereafter on 26.03.2021 till one year from their arrest.

On 26.07.2021 charge-sheet was filed. Though charge-sheet was filed after expiry of statutory period of detention i.e. one year petitioners had not availed their right to statutory bail prior to the filing of the charge-sheet. Subsequently on that date they prayed for statutory bail. As the charge-sheet had already been filed and petitioners had not availed of statutory bail prior to filing of charge-sheet their prayer for statutory bail was rightly turned down. We note chemical examiner's report has already been placed on record and date has been fixed for consideration of charge. Under such circumstances and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioners.

The application for bail is, thus, rejected.

We request the trial court to consider the issue of framing of charge at the earliest preferably within one year from the next date fixed for recording evidence and upon the charge being framed to take the proceeding to its logical conclusion as early as possible without granting unnecessary adjournment to either of the parties.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)

