

04.09.2023

Court No.01

rpan/46

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (DB) 643 of 2023

In Re : **Ajit Thapa & Another**

- Petitioners

Mr. Supratim Nag,
Ms. Matan Chakraborty
... for the Petitioners.

Mr. Sourav Ganguly,
Mr. Chattu Roy
... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Kotwali Police Station Case No. 613 of 2019 dated 22.09.2019 under Sections 21(C)/25/29 of the of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Ms. Chakraborty, learned counsel appearing on behalf of the petitioners submits that the petitioners have been in custody since September, 2019. Such long incarceration is violative of the rights guaranteed under Article 21 of the Constitution of India. Therefore, further incarceration of the petitioners may not be necessary and they should be enlarged on bail.

Mr. Ganguly, learned counsel appearing on behalf of the State submits that contraband substance above commercial quantity has been seized from the possession of the petitioners and therefore, restrictions under Section 37 of the NDPS Act are clearly attracted.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that the prayer for

bail of the petitioner no.1 was rejected on March 02, 2023. Again the prayer for bail of the petitioner no.2 was rejected on April 11, 2023 by a co-ordinate Bench of this Hon'ble Court. The said co-ordinate Bench directed that the learned trial Court should make endeavour to conclude the trial within a period of one year.

Challenging such order the petitioner no.2 filed a Special Leave Petition. The said SLP (Crl.) No.5418 of 2023 was disposed of with a direction upon the learned trial court to conclude the trial within six months from the date of the order. Such order was passed on July 31, 2023 by the Hon'ble Apex Court.

In the circumstances aforesaid, this Court is of the view that the petitioners should have waited till the expiry of the period granted by the Hon'ble Apex Court for conclusion of the trial. Before such expiry, the petitioners have again approached this Court and it is not willing to consider the prayer for bail, at this stage.

Accordingly, **CRM (DB) 643 of 2023** is **dismissed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)