

08.01.2024.
10.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 17 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection N Case No.75 of 2021 arising out of Airpor P. S. Case No.326 of 2021 dated 02.09.2021 under Section 20(b)(ii)(c)/28/29 of the NDPS Act.

In the matter of : **Raju Ghosh & Anr.**

.... Petitioners.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioners.

Mrs. Anasuya Sinha,
Ms. Mayukhi Mitra.

...for the State.

1. Petitioners contend they are in custody for two years and four months. They contend inspite of direction given by this Court in CRM (NDPS) 1074 of 2023 to conclude trial within six months, trial has not come to end. Accordingly, they renew their bail.
2. Learned Advocate for the State opposes the bail prayer. She contends two more witnesses have been examined since rejection of bail by this Court in June, 2023.
3. We have considered the materials on record. Allegations involve possession of narcotics above commercial quantity i.e. 113.5 kgs. of ganja. Earlier In June, 2023, this court while rejecting bail prayer of petitioner directed to conclude the trial within six months. Thereafter, only two witnesses have been examined. Prosecution proposes to examine 11 witnesses in all,

out of which five are still remaining. Possibility of trial concluding in the near future is bleak.

4. Under such circumstances, we are of the opinion further detention of the petitioners would infract their fundamental right to speedy trial under Article 21 of the Constitution of India. 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. Hence, they may be enlarged on bail.

6. Accordingly, the petitioners viz., **Raju Ghosh and Surya Ghosh** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat, North 24-Paraganas 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.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

