

25.01.2024

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Allowed

C.R.M. (NDPS) No. 47 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Domjur Police Station Case No. 850 of 2021 dated 26.10.2021 under Sections 20(b)(ii)(c) of the N.D.P.S. Act.

And

In Re : Sudhir Majhi & Anr. petitioners

Ms. Devi Priya Mitra

.....for the petitioners

Mr. Manoranjan Mahata

.....for the State

1. Supplementary affidavit enclosing ordersheet be placed on record.

2. Learned Counsel for the petitioners submits they are in custody for two years and three months. It is also submitted there is delay in trial. They renew their bail prayer.

3. Learned Counsel for the State opposes the prayer for bail and submits bail prayer of the petitioners was rejected earlier in March, 2023. Thereafter one witness has been examined.

4. We have considered the materials on record. 43 kgs. of Ganja was recovered from the petitioners and co-accused. However, prayer for bail was rejected on merits in March, 2023. Thereafter only one witness has been examined. This shows tardy progress in trial. Petitioners are not responsible for the delay. Keeping in mind the aforesaid facts we are of the opinion

petitioners have been able to make out a case for bail on the ground of inordinate delay in trial. Bail prayer of the petitioners on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioners.

5. 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-cum-learned Additional Sessions Judge, 3rd Court, Howrah, subject to conditions petitioners 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.

6. In the event 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.

7. The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)