

02.02.2024

17

sdas

Allowed

C.R.M.(NDPS) No. 215 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Suti Police Station Case No. 221 of 2020 dated 30.05.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Mehendi Hasan @ Mahaldar @ Mehedi Hasan & Anr. petitioners

Mr. Arnab Chatterjee

Mr. Anisur Rahman

... for the petitioners

Mr. Nuguive Ahamed, learned APP

... for the State

1. Learned Counsel for the petitioners submits they are in custody for three years and eight months. It is also submitted there is delay in trial. Accordingly, they pray for bail.

2. Learned Counsel for the State opposes the prayer for bail.

3. We have considered the materials on record. Charge was framed in 10th June, 2022. Thereafter four witnesses have been examined till February, 2023. Thereafter no prosecution witness has been examined. It is argued as a co-accused namely Fitu Mahaldar was produced for trial before another Court, delay was caused. We have taken consideration of this fact. Fitu Mahaldar was released on bail in the other case in June, 2022 and the production warrant was recalled. Thereafter, on a number of dates prosecution failed to produce witnesses. This shows indifference on the part of the

prosecution to ensure prompt conclusion of trial. Petitioners are not responsible for the delay. Under such circumstances, they have been able to make out a case for bail on the ground of 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.

4. 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 District and Sessions Judge, 5th Court, Berhampore, Murshidabad, subject to conditions 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.

5. In the event they 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.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

