

04.04.2024

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Allowed

C.R.M. (NDPS) No. 506 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Minakhan Police Station Case No. 280 of 2021 dated 29.09.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Saifuddin Gazi alias Sarfuddin & Anr. petitioners

Mr. Angshuman Chakraborty
Mr. S. S. Saha

.... for the petitioners

Mr. Binoy Panda
Ms. Mamaata Jana

.... for the State

1. Learned Counsel for the petitioners submits they are in custody for two years and six months. It is also submitted inspite of direction given by a learned Single Judge of this Court in CRR 2411 of 2023 to fix schedules of three dates at an interval of 45 days and conclude trial expeditiously, trial has hardly progressed. Accordingly, they pray for bail.

2. Learned Counsel for the State submits report. Let the report be placed on record.

3. We have considered the materials on record. Though ten liters of Codeine Mixture was recovered from the joint possession of the petitioners and co-accused trial has not progressed substantially. Petitioners are in custody for a protracted period of time. In spite of direction given by a learned Single Judge of this Court in CRR 2411 of 2023 only four out of

nineteen witnesses have been examined. There is no possibility of trial concluding in the near future. Under such circumstances, petitioners have made out a case for bail on the ground of delay in trial which infracts fundamental right to speedy justice of the petitioners. Bail prayer on the ground of delay in trial is not fettered by restrictions under Section 37 of the NDPS Act as held in ***Rabi Prakash Vs. State of Odisha***¹. Hence, we are inclined to grant bail to the petitioners.

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-Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas, subject to condition that 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2023) SCC Online SC 1109

