

09.04.2024
Sl. No.14
akd
[ALLOWED]

C. R. M. (NDPS) 620 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.04.2024 in connection with Lalgola Police Station Case No.692 of 2021 dated 13.09.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.195 of 2021)

And

In Re: ***Samirul Islam @ Kakra & Ors.***

... .. Petitioners

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose

... .. for the petitioners

Mr. Sujan Chatterjee

... .. for the State

1. It is submitted on behalf of the petitioners that they are in custody for about two years and six months. It is further submitted there is slow progress in trial. Co-accused viz. Bipul Halder has been enlarged on bail. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits bail prayer of petitioner nos.2 & 3 was turned down by the Hon'ble Apex Court in December, 2023.
3. In response, learned Advocate for the petitioners submits incorrect submission was made before the Hon'ble Apex Court on behalf of the State. They contended three witnesses have been examined whereas no witness has been examined till date.
4. We have considered the materials on record. Petitioners are in custody for more than 2½ years. No witness has been examined till date. Before the Hon'ble Apex Court, State made an erroneous submission that three out of fifteen witnesses have been examined. Be that as it may since rejection of bail by the Hon'ble Apex Court, four months have lapsed but no witness has been examined till date.

In the meantime co-accused viz. Bipul Halder has been enlarged on bail. Under such circumstances, we are of the opinion petitioners are entitled to bail on the ground of inordinate delay in trial.

5. Therefore, the petitioners, namely **(1) Samirul Islam @ Kakra, (2) Md. Tofajul Hossain @ Tofajul Hossain, (3) Abu Hena, (4) Pintu Ghosh, (5) Md. Rafikul Islam & (6) Sahidul Sk.**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional District & Sessions Judge, 2nd Court, Berhampore, Murshidabad subject to condition that the said 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 or commit similar offences in future.
6. 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 automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)