

03.05.2024.
07.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 762 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection N Case No.126 of 2022 arising out of NCB Crime No.21/NCB/KOL/2022 under Sections 8(c) read with Section 21(C) and 29 of the NDPS Act.

In the matter of : **1) Tarikul Gazi.**

2) Bakibilla Mondal.

... Petitioners.

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

...for the Petitioners.

Mr. Krishnendu Bhattacharya,
Mr. Sourav Mondal.

...for the UOI.

1. Petitioners contend they are in custody for one year and eight months. There is no progress in trial. Co-accused is on bail. Accordingly, they pray for bail.

2. Learned Advocate for the NCB opposes the bail prayer. He submits delay in the matter is due to abscondence of co-accused. Co-accused who is on bail suffered from medical issues. Petitioners cannot claim parity with him.

3. We have considered the materials on record. 450 bottles of phensedyl cough syrup containing codeine phosphate were recovered from petitioners and others. Delay in the matter is due to abscondence of co-accused. Prosecution cannot be held responsible for the delay.

4. Under such circumstances and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioners.

5. Accordingly, the prayer for bail of the petitioners is rejected.

6. We request the trial to exhaust all processes to ensure attendance of absconding accused and if his attendance cannot be procured to declare him as proclaimed offender and proceed with the trial against the petitioner and others with utmost expedition.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)