

CRM (NDPS) 858 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Bizpur Police Station** Case No. **686 of 2019** dated **23.11.2019** under Sections **21(c)/29** of the NDPS Act.

- A n d -

In the matter of : Suraj Chowdhury @ Bakhria @ Bakharia & Anr.
.... Petitioners.

Mr. Anit Dey,

... For the Petitioners.

Mr. Kaushik Kundu,
Mr. K. Bapuli,

... For the State.

In terms of our order dated June 12, 2024, the State has filed a report. Let the same be kept with the records.

From the report we do not find that the huge delay in progress of the trial is in any manner attributable to the present petitioners who have been in custody for four years and six months. Not even a single witness out of 19 witnesses has been examined. It is anybody's guess as to when the trial will conclude. One of the reasons mentioned in the State's report for the delay is long absence of the concerned Public Prosecutor.

We, therefore, do not find any acceptable explanation for the inordinate delay in progress of the trial. The petitioners have been in incarceration for a long period of time. We cannot forget that every citizen has a fundamental right to personal liberty as enshrined under Article 21 of the Constitution of India. Such right would override all considerations and restrictions under Section 37 of the NDPS Act as well.

Solely on the ground of undue delay in progress of the trial, we are inclined to allow this application for bail.

Accordingly, we direct that the petitioners, namely, **Suraj Chowdhury @ Bakhria @ Bakharia and Manjur Elahi**, shall be released on bail upon furnishing a bond of Rs. 25,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Special Judge under the NDPS Act, Barrackpore, North 24 Parganas and on further conditions that they shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioners shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and shall furnish their current address to the learned Trial Court.

In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Apurba Sinha Ray, J.)**

(**Arijit Banerjee, J.)**