

CRM (NDPS) 965 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Duttapukur Police Station** Case No. **1010 of 2021** dated **22.11.2021** under Sections **21(c)/29** of the NDPS Act.

- A n d -

In the matter of : Jamir Gazi & Anr.

.... Petitioners.

Mr. Surajit Basu,
Ms. J. Alam,
Mr. P. Chakraborty,
Ms. A. Dasgupta,

... For the Petitioners.

Mr. Saryati Dutta,
Mr. K. Bapuli,

... For the State.

The petitioner no. 1 prays for bail for the first time. The petitioner no. 2 renews his prayer for bail.

The petitioner no. 1 is in custody for two years and three months. The petitioner no. 2 is in custody for two years and eight months.

The petitioners say that only three out of 11 witnesses have been examined so far. The evidence so far recorded also points towards their innocence. There is no possibility of an early conclusion of the trial. Their fundamental right to personal liberty under Article 21 of the Constitution of India is being infringed.

Learned Advocate for the State says that charge was framed on May 29, 2023. Thereafter, the trial has proceeded at a very fast pace. Three witnesses were examined.

We are not inclined to agree that the trial has proceeded at a satisfactory pace. In any event, given the importance of the

fundamental right to personal liberty which would override any restrictions in Section 37 of the NDPS Act, solely on the ground of delay in progress of the trial and seeing that there is no possibility of early conclusion of trial, we are inclined to allow this application for bail.

Accordingly, we direct that the petitioners, namely, **Jamir Gazi and Alauddin Khan @ Fikir**, 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 Additional District and Sessions Judge, 6th Court, Barasat, 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.)**