

21.
Court
No.28

11.07.2024

(Tanmoy)

Rejected

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1057 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Ghola Excise Seizure List No. 49/2018, dated 17.01.2018.

And

In the matter of: - **Utpal Biswas & Anr.**

Mr. Debasis Kar, Adv.

...petitioners.

Ms. Anasuya Sinha, Adv.,
Mr. Koushik Biswas, Adv.

...for the petitioners.

...for the State.

203 Kgs. of *ganja* was seized from these petitioners. The learned Trial Court had granted bail to the petitioners by an order dated May 29, 2021. The State of West Bengal challenged such bail order by filing an application under Section 439(2) of the Code of Criminal Procedure, 1973, read with Section 482 thereof, being CRM (DB) 1169 of 2022. By an order dated July 25, 2022, a co-ordinate Bench allowed such application and set aside the bail order.

The order of the co-ordinate Bench was carried to the Hon’ble Supreme Court by these petitioners. By an order dated August 22, 2022, the Hon’ble Supreme Court, while dismissing the Special Leave Petition, directed the Trial Court to conclude the trial in accordance with law within a period of six months reckoned from the date of receipt of a copy of the order of the Hon’ble Court.

Learned Advocated for the petitioners says that there was some delay in communicating the order to the learned Trial Court. The petitioners surrendered on August 7, 2023.

We, therefore, see that for almost one year after the Hon'ble Supreme Court passed the aforesaid order, the petitioners were absconding. Such conduct of the petitioners does not inspire confidence. If we grant them bail, they may again disappear.

The State tells us that witness action has begun. The first witness is in the process of being examined. There are 10 witnesses named in the charge-sheet.

We are aware that an under-trial cannot be kept in custody for any long period of time on the pretext that trial has not concluded. We are also not unmindful of the fact that the petitioners are in custody for almost one year from the date when they surrendered pursuant to the order of the Hon'ble Supreme Court. They say that initially they suffered incarceration for three years and six months.

Balancing all factors and considering that a huge quantity of contraband item was seized from the petitioners and in view of *prima facie* incriminating evidence against them, we are not inclined to entertain their prayer for bail

The application being CRM (NDPS) 1057 of 2024 is accordingly dismissed.

We direct the learned Trial Court to expedite the trial to the utmost and conclude the same within six months from the next date fixed for recording of evidence, without granting

unnecessary adjournments to either of the parties, if necessary, by fixing frequent schedules for examination of witnesses.

We clarify that in the event the trial is not concluded within the time period granted by this Court, the petitioners will be entitled to renew their prayer for bail.

This order is to be communicated to the learned Trial Court by both the parties.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)