

37. 06.08.2024
Court
No.6 (Tanmoy)

Allowed

CRM (NDPS) 1116 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973/ Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **NDPS Seizure case No. 12/NDPS/CL/Phensedyl/BCPU/CCP/WB/2021-22**, dated **27.11.2021** under Sections **21(c)/29** of the NDPS Act, 1985.
And

In the matter of: - **Chimon Sarkar @ Chimanta Sarkar @ Chinmoy Sarkar & Anr.**

Ms. Shabana Hasin
Ms. Samima Akter Banu
Ms. Neha Roy
...petitioners.
...for the petitioner.
Mr. Kausik Dey
Mr. K. Maiti
...for the UOI/OPs.

1. Learned counsel for the petitioners submits the petitioners are in custody for over two years. He contends prosecution has failed to examine witnesses during trial. Presently only two witnesses have been examined. There is no possibility of trial concluding in the near future. They pray for bail.
2. Learned lawyer for the Union of India/opposite parties submits petitioners and others were illegally carrying phensedyl syrup in a vehicle which were apprehended. Trial is in progress.
3. We have considered the materials on record. Allegations involve illegal transportation of phensedyl syrup. However, petitioners are in custody for over two years and eight months. Only two out of eight witnesses have been

examined. There is no possibility of trial concluding in the near future.

4. Under such circumstances, we are of the opinion petitioners have made out a case for bail on the ground of inordinate delay in progress of trial.
5. Accordingly, we direct the petitioners, namely, **1. Chimon Sarkar @ Chimanta Sarkar @ Chinmoy Sarkar, 2. Sri Dilip Mondal** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-Additional District Judge, 5th Court, Berhampore, Murshidabad, subject to condition that the petitioners shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.
6. In the event petitioners fail to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel the their bail without any further reference to this Court.
7. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)