

07. 20.09.2024
Court
No.238 (Tanmoy)

Allowed

CRM (NDPS) 1486 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 **Pandaveswar** Police Station Case No. **59/2022**, dated **13.5.2022** under Sections **20(b)(ii)(c)/29** of the NDPS Act, 1985.

And

In the matter of: - **Kamal Sarkar & Anr.**

...petitioners.

Mr. Uday Sankar Chattopadhyay
Mr. Pronay Basak

...for the petitioners.

Mr. Subrata Roy
Ms. Snigdha Saha

...for the State.

1. Learned lawyer for the petitioners contends petitioners are in custody for two years and four months. He submits there is delay in trial. The petitioners renew their prayer for bail.
2. Learned lawyer for the State opposes the bail prayer. He submits trial is in progress.
3. We have considered the materials on record. It is alleged 40.9 Kgs. of ganja, which is above commercial quantity, was recovered. On this score their bail prayer was rejected on merits on September 19, 2023, in CRM (NDPS) 1545 of 2023. Thereafter, one witness has been examined in part. Prosecution proposes to examine 15 witnesses. There is little possibility of the trial concluding in near future.
4. Under such circumstances, we are of the opinion petitioners are entitled to be released on bail on the ground of delay in trial. Bail prayer of the petitioners on this score is not

fettered by the restrictions under Section 37 of the NDPS Act.

5. Accordingly, we direct the petitioners, namely, **1. Kamal Sarkar, 2. Bapi Ruidas** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) 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-Learned Additional District & Sessions Judge, 3rd Court, Asansol, Paschim Bardhaman, 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.)