

11.01.2024

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Allowed

C.R.M. (NDPS) No. 1954 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 343 of 2021 dated 21.05.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Selim Sk. & Anr. petitioners

Ms. Minoti Gomes

Ms. Chandrima Debnath

.....for the petitioners

Ms. Amita Gaur

.....for the State

1. Learned Counsel for the petitioners submits they are in custody for two years and seven months. It is also submitted there is delay in trial. He prays for bail.

2. Learned Counsel for the State submits report. Report be kept on record.

3. We have considered the materials on record. Though allegations involve possession of narcotics above commercial quantity there is inordinate delay in trial. No witnesses were examined in the course of the schedules fixed before the trial court. Petitioners are not responsible for the delay. Prosecution proposes to examine eight witnesses. There is no possibility of trial concluding in the near future. In view of the aforesaid we are of the opinion petitioners have been able to make out a case of breach of their fundamental right to speedy trial and are entitled to bail on such score. Bail prayer on the

ground of delay is not fettered by Section 37 of the NDPS Act. Accordingly, we are inclined to grant bail to the petitioners.

4. Accordingly, we direct that the petitioners 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, Murshidabad, subject to condition that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

5. In the event petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)