

02 10.09.2020
rkd Ct. No.08
&PA

C.R.M. 3284 of 2020
(IA No. 2 of 2020 (old CRAN 1640 of 2020)
(Through Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kalyani** P.S. Case No. **534 of 2015** dated **22/08/2015** under Sections **25/27** of the Arms Act and under Sections **9B(II)** of the Explosive Act and under Sections **3/4** of the E. S. Act.

And

In the matter of: - Nirmal Mondal

....petitioner.

Mr. S. Mitter,
Mr. L. Maitra

...for the petitioner.

Mr. N. Ahmed,
Ms. A. Gaur

...for the State.

Petitioner undertakes to affirm and stamp the petition/application as per Rules within a month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

Accordingly, the application being CRAN 1640 of 2020 is disposed of.

Petitioner is in custody for more than five years. It is further submitted that there is little possibility of trial concluding in the near future.

Learned counsel appearing on behalf of the State opposes the prayer for bail and submits that petitioner was one of the members of the gang who was found in possession of a huge cache of fire arms and explosives. Prayer for bail of co-accused has been turned down by a coordinate bench of this Court.

We have considered the materials on record. Allegations against the petitioner are grave. Witness action has already

commenced. Prayer for bail of co-accused has been turned down by a co-ordinate bench of this Court. In view of the aforesaid facts, we do not consider it prudent to enlarge the petitioner on bail on the plea there is delay in trial due to the prevailing pandemic.

However, we are not unmindful of the protracted period of under-trial detention suffered by the petitioner. In ***Hussain Vs. Union of India, 2017 (5) SCC 720*** at para 22, the Apex Court proposed a uniform target to conclude trial in sessions cases where under-trials are in detention for two years and in magistrate triable cases where the detention is six months and more. Presently the country is in an unlock mode and lack of progress in trial proceedings particularly in cases where one or more accused is in custody for a protracted period of time is not desirable.

Accordingly, we direct the trial courts to commence/continue trial proceedings either via physical mode or hybrid/video conferencing mode, as they may consider it appropriate, and upon following appropriate COVID protection and social distancing measures preferably in the following cases:-

- a) Sessions cases where one or more accused is in custody for two years and more (like the present one) and magistrate triable cases where the accused is in custody for six months or more.
- b) Cases where specified time frame for conclusion of trial

has been stipulated in the law e.g. POCSO Act, rape cases, Prevention of Corruption Act, Negotiable Instruments Act, etc.

c) Criminal cases involving Ponzi matters, cases pending before the Special Courts under Prevention of Money Laundering Act.

d) Cases pending before Special Courts under National Investigation Agency Act.

e) Cases where specified directions for conclusion of trial has been given by the superior courts.

f) Cases which are at a matured stage, that is, examination of accused under section 313 Cr.P.C., arguments, etc.

Registrar General is directed to circulate a copy of this order to all the District Judges/Chief Judicial Magistrates and they shall in turn circulate it to all criminal courts for due compliance.

The application for bail is, thus, rejected.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)

