

16.03.2021

Item No.26

Ct.No.28

dc.

C.R.M. 245 of 2021

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Eco Park P.S. Case No. 151 dated 17.08.2020 under Sections 304/420/468/471/417 of the Indian Penal Code (G.R. Case No. 1899/2020).

And

In Re : **Bazlur Rahaman Molla**

... Petitioner.

Mr. Milon Mukherjee,
Mr. B. Manna,
Md. Younush Mondal

... For the Petitioner.

Mr. S. G. Mukherjee, Id. P.P.,
Mr. Madhusudan Sur,
Mr. Aniket Mitra

... For the State.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha

... For the *de facto* complainant.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Eco Park P.S. Case No. 151 dated 17.08.2020 under Sections 304/420/468/471/417 of the Indian Penal Code.

It is submitted by Mr. Mukherjee, learned senior advocate that the petitioner has been falsely implicated in connection with the aforesaid case. It is further submitted that the element of Section 304 of the Indian Penal Code is conspicuously absent in the instant case and the petitioner

has been unnecessarily dragged into this proceeding because of the dispute with his wife.

On the other hand, the learned Public Prosecutor opposes the prayer for bail. It is submitted that the petitioner does not have the requisite qualification to undertake the surgery of brain. It is further submitted that the case has been committed to sessions for trial and in fact, two witnesses have been examined and there is every possibility that the case would be brought to its logical conclusion in a shortest interval.

Considering the submissions advanced before us and on perusal of the materials available from the bunch of papers produced before us and the charge-sheet has already been submitted, we find that the trial has commenced and in fact, two witnesses have already been examined. It is open to the petitioner to take all pleas, which have been taken in the bail application, before the learned Sessions Judge and we do not find that it is a fit case that the petitioner, who is already languishing in jail and facing the trial, should be enlarged on bail. Hence, the petitioner's prayer for bail is **rejected**.

However, we appreciate the agony and anguish of Mr. Mukherjee over the delayed disposal of the case. We, therefore, request the learned Sessions Judge to make endeavour to bring the sessions case to its logical conclusion

within nine months from the next date fixed for recording evidence.

We hope and trust that the prosecution as well as the defence would co-operate with the learned Sessions Judge in adhering to the time limit as indicated hereinabove and shall not ask for unnecessary adjournment without any justifiable cause.

The application for bail, being CRM 245 of 2021, is, thus, disposed of.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)