

08.04.2021
Item no.34
Court No.28
Avijit Mitra

C.R.M.705 of 2021 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Canning Police Station Case No.91 of 2019 dated 25.02.2019 under Sections 302/34 of the Indian Penal Code;

And

In Re : Ajibar Sardar

.... Petitioner

Mr. Sourav Chatterjee,
Mr. Debangana Bhattacharjee,
Ms. Swarnali Saha
...for the petitioner

Mr. Nequive Ahmed,
Ms. Trina Mitra
...for the State

Mr. Debajyoti Deb,
Ms. Rupsha Bhowmik
...for the *De facto* Complainant

This is an application for bail.

Learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated and has been in incarceration for a period exceeding 700 days. In the supplementary affidavit filed pursuant to the earlier order the petitioner has disclosed the order passed by the court of the learned Sessions Judge, South 24 Parganas in Criminal Misc. Case No. 2000 of 2019 wherein the accused Mizanur Rahaman Gazi who stands on the same footing as of the present petitioner.

Learned advocate appearing for the State opposes the prayer for bail. Our attention has been drawn to the statements of the witnesses under Section 161 of the Code

of Criminal Procedure to show that the applicant was last seen with the accused along with Mizanur Rahaman Gazi.

We have perused the materials in the case diary and find that the present petitioner stands on the same footing as of Mizanur Rahaman Gazi. We further observe that the petitioner is in custody for about 768 days and there is no immediate possibility of trial being commenced in the near future. In view of the fact that the accused Mizanur Rahaman Gazi was granted bail on 27th May, 2019 and the present petitioner stands on the same footing and also taking into consideration the long period of detention of the present petitioner and without much progress in the case and there is bleak prospect of the trial being commenced in the near future, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Ajibar Sardar**, 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 Additional Chief Judicial Magistrate, Alipore, South 24 Parganas on condition the petitioner shall not enter the jurisdiction of Canning Police Station save and except on the dates specified for hearing before the learned Trial Court and for meeting the Officer-in-Charge, Canning Police Station once a week until further orders. While on bail, the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. It is also made clear

that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail, without any further reference to this Court and with a further condition to comply with the provision of Section 437(3) of the Code of Criminal Procedure.

The application for bail being C.R.M. No.705 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)