

03.06.2021
Court No.28
Item No. 20
Avijit Mitra

CRM 1304 of 2020 (Via video Conference)
+
CRAN 1 of 2020

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : **Faruk Mondal**

Petitioner

Mr. Pratip Mukherjee

For the Petitioner

Mr. N. Ahmed,
Md. Anwar Hossain,
Ms. Sreyashee Biswas

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Hanskhali Police Station Case No. 381 of 2017 dated 09.12.2017 under sections 489B/489C of the Indian Penal Code.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated alleging that fake currency notes of a total amount of Rs. 10,500/- had been recovered from his possession. Though chargesheet has been submitted and charges have been framed there had been no progress thereafter and the petitioner is languishing in custody since 09th December, 2017. He further submits that out of total seven witnesses none have been examined till date. Drawing the attention of this Court to the earlier order passed in the present application, he submits that the investigating agency was directed

to submit a report initially on 6th February, 2020 but the same had not been filed till date.

Mr. Ahmed, learned advocate appearing for the State opposes the petitioner's prayer and submits that the delay which had occasioned is not totally attributable to the State. In view of the nature of offence the petitioner is not entitled to any relief as prayed for in the present application.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary. From the sequence of facts it appears that the petitioner cannot be held responsible for the delay which has occasioned. The petitioner is languishing in custody since 09th December, 2017 and there is no possibility towards early conclusion of trial. Article 21 of the Constitution creates a right in favour of the accused to be tried speedily and long delay may be taken as presumptive proof of prejudice [See the judgments delivered in the cases of *Hussainara Khatoon – Vs- State of Bihar, Patna*, reported in (1980) 1 SCC 81 and *Abdul Rehman Antulay & Ors. –Vs- R.S. Nayak & Anr.*, reported in (1992) 1 SCC 225].

In the present pandemic situation and the rapid proliferation of the virus, bail prayer needs to be considered liberally [See the order passed by the Hon'ble Supreme Court in *Re: Contagion of Covid-19 Virus in Prisons*].

Applying the proposition of law to the facts of the present case, we are of the opinion that further detention of the petitioner,

who is in custody since 09th December, 2017, is not warranted in the facts and circumstances of the present case.

Accordingly, we direct that the petitioner, namely, **Faruk Mondal**, shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District and Sessions Judge at Ranaghat, Nadia on condition that the petitioner shall reside within the jurisdiction of Hanskhali Police Station and shall meet with the Officer-in-Charge of Hanskhali Police Station once a fortnight until further orders.

He shall also attend the learned Trial Court on all the dates, as specified for hearing.

It is further directed that the petitioner shall not tamper with the evidence or intimidate the witnesses.

In the event he fails to comply with the aforesaid directions, without any justifiable cause, the learned Court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 1304 of 2020 and connected application being CRAN 1 of 2020, are disposed of.

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

(Shampa Sarkar, J)

(Tapabrata Chakraborty, J)

