

21.06.2021

Court No.28
Item No.12
(Dismissed)

Akd
&
Ab

CRM 1829 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Kasba Police Station Case No. 07 of 2016, dated 05.01.2016 under Sections 302/394 of the Indian Penal Code.

And

In the matter of : **Sunil Singh Chowhan @ Sanjay Kumar.**
...Petitioner

Mr. Gaganjyot Singh

...For the Petitioner.

Mr. Madhusudan Sur,
Mr. Dipankar Pramanick.

...For the State.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Kasba Police Station Case No. 07 of 2016 under Sections 302/394 of the Indian Penal Code.

We appreciate the agony and anguish shown by the petitioner over the delayed disposal of the Sessions case. It is submitted by the learned Advocate for the petitioner that the petitioner is in custody since five years and four months; and no progress has been shown in the Sessions trial.

Learned Advocate for the State submits that the Sessions trial is in progress, but the progress was impeded by the struck of COVID pandemic despite all efforts having been taken by the prosecution to bring the case to its logical conclusion.

Our attention is drawn to the list of dates pertaining to the Sessions Case, wherefrom it appears that out of 38 witnesses 10 witnesses had already been examined. However, it is a matter of concern that since last four or five occasions the accused/petitioner could not be produced before the learned Sessions Judge and the learned Sessions Judge had no other option but to adjourn the matter. Lame excuse has been taken on the pandemic, but we do not think that the constitutional right of a citizen of the country can be undermined at such score. There has been a production of the other co-accused on one such occasion but the petitioner was not

produced; at least we do not find any plausible reason therefor.

Considering the seriousness of the charges and the fact that the petitioner was identified in Test Identification parade and was absconding for a pretty long time and also the recovery was made from his exclusive custody or on his disclosure, we do not think that it is a fit case, where the petitioner should be enlarged on bail. Accordingly, the prayer for bail of the petitioner is rejected.

However, we direct the State to take utmost endeavour to bring the Sessions Case to its logical end and it goes without saying that the State shall bring all the witnesses and also secure the presence of the accused of such case on each day of listing of the matter in the docket of the learned Sessions Judge except on unavoidable and unforeseen circumstances. Learned Sessions Judge is also requested to see that the Sessions Trial is again set in motion and all reasonable care would be taken to bring it to the conclusion within eight months from the date of the communication of this order.

The application for bail, being CRM 1829 of 2021, is thus **dismissed**.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)