

22.07.2021
Court No.30
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C.R.M. 3802 of 2020
(Via Video Conference)

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

And

In Re : Ranjit Shaw petitioner

Mr. Apurba Kumar Chakraborty
Mr. Arindam Jana
....for the petitioner

Ms. Faria Hossain
Ms. Baisali Basu
..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Kulti Police Station Case No. 289 of 2017 dated 21.06.2017 under Sections 302/34/120B of the Indian Penal Code.

Mr. Jana, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. Eight co-accused persons had already been enlarged on bail. Upon completion of investigation charge sheet has also been submitted and as such further detention of the petitioner, who is in custody for about 1500 days, is not necessary, more so, when there is no possibility towards early conclusion of trial since out of total sixteen witnesses none had been examined till date.

He further submits that deprivation of personal liberty without ensuring speedy justice would not be in consonance with the right guaranteed under Section 21 of the Constitution of India and in the said conspectus, further detention of the petitioner is not necessary.

Ms. Basu, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary. According to her, the delay, which has occasioned towards conclusion of trial, is not totally attributable to the State. Furthermore, the period of delay stands intervened by a period lost due to the pandemic.

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. He is languishing in custody for about 1500 days and there is also no possibility towards early conclusion of the trial.

In several cases, the Hon'ble Supreme Court has granted bail owing to the long period of incarceration and the unlikelihood of the trial being completed any time in the near future. The exposition of Article 21 in the case of *Hussainara Khatoon and Ors. Vs. Home Secretary, State of Bihar, Patna*, reported in (1980) 1 SCC 81 was exhaustively considered afresh in the case of *Abdul Rehman Antulay and Ors. Vs. R.S.Nayak and Anr.*, reported in (1992) 1 SCC 225 and it was *inter alia* observed that a fair, just and reasonable procedure implicit in Article 21 creates a right in favour of the accused to be tried speedily and long delay may be taken as presumptive proof of prejudice.

Applying such 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 for about 1500 days, is not warranted.

In the present pandemic situation and [rapid proliferation of the virus](#), bail needs to be considered liberally unless custodial detention is absolutely essential [See the order passed by the Hon'ble Supreme Court in [re-Contagion of Covid 19 Virus in Prisons](#)].

Accordingly, the petitioner, namely, **Ranjit Shaw**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of the like amount, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Asansol with a further condition that the petitioner shall meet with the Officer-in-Charge, Kulti Police Station, once in a week on and from 2nd August, 2021 until further orders.

The petitioner shall also attend the learned trial court on all the dates specified for hearing.

While on bail, the petitioner shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

It is 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.

The application for bail being C.R.M. No.3802 of 2020 is, accordingly, disposed of.

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

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)