

**23.07.2021**

**CRM 3109 of 2021**

Court No. 28  
Item No. PB - 32  
nandy/seth

(bail - allowed)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 05.04.2021 in connection with Jalangi Police Station Case No. 129 of 2011 dated 13.02.2011 under Sections 498A/302 of the Indian Penal Code. (G.R. No. 606 of 2011)

and

In the matter of: **Nikhil Halder**

..... Petitioner

**Mr. Pawan Kumar Gupta, Advocate**

**Ms. Sofia Nesar, Advocate**

**Mr. Santanu Sett, Advocate**

.....for the Petitioner

**Mr. Saswata Gopal Mukherjee, Learned P.P.**

**Ms. Faria Hossain, Advocate**

**Mr. Aniket Mitra, Advocate**

..... for the State

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Jalangi Police Station Case No. 129 of 2011 dated 13.02.2011 under Sections 498A/302 of the Indian Penal Code.

This is an application renewing the prayer for bail for tenth times after it was rejected lastly on September 10, 2018 vide CRM 7351 of 2008.

The learned Advocate for the petitioner submits that the petitioner has been languishing in custody for nearly about 10 years in connection with a murder trial for causing death of his wife and there has been no substantial progress of trial in the meantime by reaching the logical conclusion of the case. It is further submitted that out of 15 witnesses cited in the charge-sheet, 10 witnesses have already been examined and only three police witnesses are

still left unexamined. According to the learned Advocate for the petitioner though the two sons of the petitioner were described to be the eye-witnesses to the occurrence and their statements were recorded under Section 164 of the Code of Criminal Procedure, but during trial those two sons have resiled from their own statement rendering the prosecution case to be shrouded with doubt.

Learned advocate for the State raises objection against the prayer for bail submitting that the trial of this case is at the verge of completion and only police witnesses are left to be examined and at this stage, if the petitioner be released on bail, there is fair chance of abscondence and the trial would be seriously prejudiced.

We are alive of the fact that there have been several rejections of the bail prayer in the interest of holding trial. The petitioner is languishing in custody for nearly ten years without any conclusive trial. Most of the vulnerable witnesses including the sons of the deceased, who are the most dependable witnesses of the prosecution have already been examined, and some formal police witnesses are left unexamined.

Having considered the submissions of both sides and bearing in mind that most of the vulnerable witnesses have already been examined together with the progress of trial and long incarceration of petitioner about 10 years, we are of the considered view that further detention of the petitioner is not necessary.

As such, the prayer for bail is **allowed**.

Accordingly, the petitioner shall be released on bail on the following conditions:-

- i) The petitioner shall furnish a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate,

Murshidabad at Berhampore;

- ii) The petitioner shall make himself available on each and every date so fixed by the trial Court;
- iii) The petitioner shall not tamper with the evidence and shall not intimidate the witnesses in any manner whatsoever;
- iv) Failure to attend the Court on a solitary day without any justifiable reason shall disentitle the petitioner the privilege of bail and the trial Court would be at liberty to cancel the bail without any reference to this Court.

The application being **CRM 3109 of 2021** accordingly **disposed of.**

**(Subhasis Dasgupta, J.)**

**(Shivakant Prasad , J.)**