

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE ARIJIT BANERJEE**
And
The Hon'ble **JUSTICE BIVAS PATTANAYAK**

CRM 3648 of 2021

Gopal Shit
-Vs-

The State of West Bengal & Ors.

For the Petitioner: Mr. Ayan Bhattacharyya, Adv.,
Mr. Sharequl Haque, Adv.,
Ms. Ankita Das Chakraborty, Adv.,
Mr. Sagnik Mukherjee, Adv.

For the State: Mr. Pradipta Ganguly, Adv.

Heard on: September 14, 2021.

Judgment on: September 30, 2021.

BIVAS PATTANAYAK, J. : –

1. This is an application for bail in connection with a case under Section 302/326/307/201 of the Indian Penal Code.
2. At the very outset learned Advocate for the petitioner submitted that this is renewal of his earlier prayer for bail.
3. Learned Advocate for the petitioner submitted that this accused is in custody for more than 2000 days and only three witnesses have been examined so far as per the order of the trial court, which is annexed to the petition. Further

though in the earlier order of rejection by this Hon'ble Court passed in CRM No. 3342 of 2020, it has been indicated that 10 witnesses have been examined but that is not the actual state of affairs. Accordingly, there is inordinate delay in conclusion of trial resulting in incarceration of the petitioner for a significant period. Due to such protracted detention there is violation of the rights of the petitioner enshrined under Article 21 of the Constitution and in support of his contention, he relied on the decision of the Hon'ble Supreme Court of India passed in **Union of India versus K.A Najeed** reported in (2021) 3 **Supreme Court Cases 713**. In view of his above submission he prayed that the accused be enlarged on bail on any terms and conditions as the Hon'ble court may deem fit and proper.

4. Learned Advocate appearing on behalf of the State vehemently opposed the bail prayer of the petitioner and submitted that the allegation against the petitioner is very severe in nature and further the trial of the case has already commenced and accordingly his bail prayer should be rejected.
5. We have heard the learned Advocates for both the sides at length and perused the material in the case-diary. It is found from the statement of the injured at pages 153 and 181 and the statement of other witnesses in case diary, that there are serious allegations against this accused/petitioner of his involvement in causing murder of two women and inflicting serious injuries to the person of the injured belonging to the same household on the self-same day. Thus *prima facie* from the material on record as above it appears that the allegations against the petitioner are grave and serious.

6. We may usefully reproduce the observation of Hon'ble Supreme Court made in **Prasanta Kumar Sarkar versus Ashis Chatterjee and another** reported in (2010)14 SCC 496 that while exercising the power for grant of bail the court has to keep in mind certain circumstances and factors:

“9 among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to be believed that the accused had committed the offence,

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(vi) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced;

(viii) danger, of course, of justice being thwarted by grant of bail;”

7. As regards the decision of the Hon'ble Apex Court passed in **Union of India versus K.A Najeelb (supra)**, relied upon by the learned Advocate for the petitioner, we find that the said case relates to offence under the Unlawful Activities (Prevention) Act. In the present case the charges relates to offence of murder and grievous injury. Thus, the facts and circumstances involved in the cited decision are quite dissimilar to the case in hand.

8. On an overall assessment of the materials and the extent of complicity of the petitioner and also taking into consideration the nature and gravity of accusation, we are not inclined to enlarge the petitioner on bail.
9. However, we are not oblivious to the fact of long detention of the petitioner and his right to have a speedy trial. Accordingly we are of the view that the trial of the case should be concluded at the earliest and hence, the trial court is requested to conclude the trial of the case within a period of one year from the date of communication of this order.
10. The CRM no. 3648 of 2021 is accordingly dismissed, with the aforesaid observation.

(Bivas Pattanayak, J.)

I agree.

(Arijit Banerjee, J.)