

03.06.2021
Court No.28
Item No. 43
S.R
Bail Granted

**CRM 3749 of 2021
(Via video Conference)**

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

And

In Re : **Chandan Kr. Shaw**

Petitioner

Mr. Soumya Basu Roy Chowdhury

For the Petitioner

Ms. Zareen N. Khan

Ms. Sreeparna Das

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bantra Police Station Case No. 116 of 2010 dated 24.10.2010 under sections 395/397/412 of the Indian Penal Code and Sections 25 and 27 of the Arms Act.

Mr. Chowdhury, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody for more than ten years and trial is yet to be completed. A co-accused person similarly situated with the petitioner had already been enlarged on bail by an order dated 7th August, 2020 passed in CRM No.5240 of 2020. In the said conspectus, further detention of the petitioner is not necessary.

Ms. Zareen, learned advocate appearing for the State opposes the petitioner's prayer and submits that thirty-seven witnesses have already been examined and trial is at an advanced stage.

From the sequence of facts, it appears that the petitioner cannot be held responsible for the delay in trial. He is languishing

in custody for more than ten years. Article 21 of the Constitution of India 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 consideration of 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 such proposition to the facts of the case, we are of the opinion that custodial detention of the petitioner is not warranted in the facts and circumstances.

Accordingly, we direct that the petitioner, namely, **Chandan Kr. Shaw**, 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 Chief Judicial Magistrate, Howrah with a further condition that he shall appear before the learned trial court on all the dates as specified for hearing.

With the aforesaid observations, the application for bail, being CRM No. 3749 of 2021, is 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)