

09.08.2021

Court No.28
Item No.35
(Rejected)

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CRM 4127 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with S.T.F. Police Station Case No. 04 dated 06.05.2018 under Section 120B of the Indian Penal Code and Section 25(1AA) of the Arms Act, (G.R. Case No. 627 of 2018);

And

In the matter of : **Rajesh Kumar @ Munna**
...Petitioner

Mr. L. Vishal Kumar,
Mr. Rajnish Kr. Kalawalia.

...For the Petitioner

Mr. N. Ahmed,
Ms. Zareen N. Khan,
Ms. Amita Gaur.

...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 S.T.F. Police Station Case No. 04 dated 06.05.2018 under Section 120B of the Indian Penal Code and Section 25(1AA) of the Arms Act.

Taking shelter under the order of the Supreme Court passed in connection with an application for bail filed by the petitioner, the present application has been taken out, as despite a direction for completion of trial within six months no progress has been shown therein.

Repeated applications filed by the petitioner were dismissed/rejected by this Court and ultimately the Supreme Court also rejected the application for bail with trust and hope that the trial would be completed within six months.

Our attention is drawn to the order no. 83 dated 22nd March, 2021 recorded by the learned Judge, Special Court, wherein it is recorded that because of the frequent adjournments sought by the defence, although the prosecution was ready with the witnesses, the matter could not be progressed; even at one point of time the defence lawyer, who did not turn up, took an adjournment on the ground

that he is engaged in another Court. Because of the representation by separate lawyer the matter could not be progressed by the Court and the inability has been recorded in the said order.

This is a matter of great concern that once the Supreme Court has directed the matter to be completed within six months, there must be some alacrity to be shown in this regard. Equally it is important to note that if the co-operation from the defence counsel is not made, it jeopardizes the progress of trial and rendering the adherence of time limit set up by the Supreme Court unworkable.

Though the learned Advocate for the petitioner pleads that he is not responsible for such delay, yet the delay is patent from the record, may be at the behest of other defence Counsel.

In view of such situation and the fact that repeated applications filed by the petitioner for bail were rejected, we do not find any justification in releasing the petitioner on bail simply because the time limit set up by the Supreme Court for conclusion of trial has elapsed.

The prayer for bail is thus rejected.

However, we direct the learned Sessions Judge to proceed with the trial and ensure that the defence Counsel appearing for several accused do not divulge themselves in protraction of the litigation and keeping the accused incarcerated for all time to come.

The Trial Court is directed to complete the trial within six months from the date of the communication of this order and shall refuse all adjournments filed by the defence excepting extraordinary and exceptional circumstances.

The application for bail, being CRM 4127 of 2021, is thus **dismissed**.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)