

22.09.2021

CRM 4469 of 2021

Court No.28
Item No.38
(Rejected)

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In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Kasba Police Station Case No. 266 dated 16.04.2013 under Sections 120B/364A/302/201 of the Indian Penal Code;

And

In the matter of : **Sukhdev Jadav @ Sukhdew Prasad Yadav.**
...Petitioner

Mr. Md. Musharrof Hossain,
Mr. Manabendra Nath Banerjee,
Mr. Satadru Lahiri.

...For the Petitioner

Mr. N. Ahmed,
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 Kasba Police Station Case No. 266 under Sections 120B/364A/302/201 of the Indian Penal Code.

It is submitted by the learned Advocate for the petitioner that the petitioner is in custody since last eight years in connection with the aforementioned case and took out an application for granting bail. He relies upon an order passed by the Supreme Court in Special Leave to Appeal (Crl) No(s). 5494 of 2020, which was disposed of on 14th December, 2020 directing the Trial Court to conclude the trial within three months from date.

The grievance as it appears relates to non-adherence of the time limit indicated by the Supreme Court in the said order. Our attention is drawn to the Memo of Evidence, wherefrom it appears that the case was fixed in a close proximity of time despite the disruption in normal functioning of the Court and because of frequent change of lawyers the cross-examination of the last witness, i.e. the Investigating Officer, could not be concluded. Even on yesterday the matter was fixed but the cross-examination could not be completed and the next date is fixed on 20th September, 2021.

In view of the above, we do not think that it is a fit case where the petitioner should be enlarged on bail, more particularly when the

Supreme Court has also rejected the said application.

However, we are not unmindful of the fact that there was a clear direction by the Supreme Court to conclude the trial within the stipulated time and the time has expired. Equally we cannot oversight that because of the modalities adopted by the petitioner in forestalling the conclusion of trial, the said time limit could not be adhere to. The Sessions Judge has fixed the date on short interval with profound hope that the trial would be completed, but the same is far from reality.

For the reasons indicated hereinabove since the next date is fixed on 20th September, 2021 for the cross-examination of the last charge-sheeted witness, the learned Advocate for the petitioner shall ensure that the cross-examination is completed on the said date. If for any reason, which is beyond the control of the petitioner, it could not be concluded on the same day, the learned Sessions Judge shall fix the date on the next day so that the recording of evidence of the witness is completed in all respect.

Learned Advocate for the petitioner assures this Court that they would co-operate and assist the Court in keeping the time limit as indicated above.

Since we do not think that it is a fit case where the petitioner should be enlarged on bail, more particularly when the application for bail was rejected by the Supreme Court in the month of December, 2020, the present application being **CRM 4469 of 2021** is also **dismissed**, as there is no changed circumstances.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)