

06.12.2021
tkm/ct 28
sl no. 4

C.R.M. 4797 of 2021

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Baduria P.S Case no. 815 of 2016 dated 22.11.2016 under sections 370(5)/315/318/367/368/304/419/420/467/201/34/120B of the Indian Penal Code read with sections 75/80/81 of the Juvenile Justice (Care & Protection) Act read with section 5 of the Medical Termination of Pregnancy Act

And

Allowed

In Re : Putul Banerjee petitioner

Mr. Jayanta Narayan Chatterjee
Mr. D Biswas
Ms. N Chatterjee
Mr. Nazir Ahmed
Ms. J Patra
Ms. P Sinha

..... for the petitioner

Mr. S G Mukherjee, Id PP
Mr. M Sur
Ms. Faria Hossain

..... for the State

Petitioner is in custody for five years and it is submitted on behalf of the petitioner that she is a septuagenarian lady and suffering from gangrene in both her legs. It is further submitted that there is little possibility of the trial concluding in near future.

Learned lawyer for the State opposes the prayer for bail and submits that the allegations are very grave and involve trafficking of new born babies. Trafficked babies were sold from the nursing-home owned by the petitioner. He submits trial has substantially progressed and three more witnesses shall be examined on behalf of the proceeding. He submits medical report relating to state of health of the petitioner.

Bail has been sought for on the part of the petitioner on the ground of inordinate delay in trial and the deteriorating health condition of the petitioner. Medical report placed before us shows that the petitioner had suffered a fall in the correctional home in 2016 and hurt her left knee. She was treated for dislocation of patellar in 2017. In 2020, she had been treated in the hospital for hypoglycemia and thereafter she attended the hospital with diminished sensation of both legs. Various medical tests have been conducted and the petitioner has been advised to attend the OPD for colour Doppler test. The aforesaid medical report shows that the petitioner is a diabetic and is suffering from various ailments including diminished sensation in both legs. She is being regularly treated from the hospital.

In view of the aforesaid facts, we are of the opinion that the health condition of the petitioner requires specialized and regular medical attention. She has undergone detention for five years and the trial has not concluded as yet. Although the allegations are serious, we note that vital witnesses have already been examined and there is little chance of their being won over. In this factual background particularly the protracted period of detention suffered by a septuagenarian lady who is suffering from serious ailments including loss of sensation in legs, we are inclined to grant bail to the petitioner subject to strict conditions.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned

ACJM, Basirhat on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall remain within the jurisdiction of Behala P.S except for the purpose of investigation and attending court proceeding. Petitioner shall regularly attend trial personally or through lawyer and shall not seek any adjournment on her behalf.

In the event she fails to appear before the trial court without justifiable cause and seeks to delay or dilate the proceedings without justification, the trial court shall be at liberty to cancel her bail automatically without reference to this court.

The application being CRM 4797 of 2021 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)