

03.08.2021
Court No.30
Item No. 05
Krishnendu
Bail Rejected

**CRM 11889 of 2019
(Via video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Hogalberia P.S. Case No. 122 of 2009 dated 05.10.2009 under sections 302/34 of the Indian Penal Code;

And

In re: **Jamal Mondal**

...Petitioner

Mr. Debasish Kar

Mr. Amanul Islam

Mr. Sourav Mukherjee

... For the Petitioner

Mr. Swapan Banerjee

Mr. Suman De

...For the State

This is an application for bail taking the ground of long incarceration after it was rejected lastly on 18th July, 2019 vide CRM 6250 of 2019.

Learned advocate for the petitioner submits that the petitioner has been languishing in jail for more than five years and the co-accused persons, similarly circumstanced, have already been released on bail. It is further submitted that most of the vulnerable witnesses of the prosecution have already been examined and there is no possibility of abscondance in the event the petitioner be released on bail.

Learned advocate for the State raises objection against the prayer for bail. It is submitted that the trial is getting delayed due to protraction being caused by the defence, which has filed

a petition under section 311 of the Code of Criminal Procedure after examination of accused persons under Section 313 Cr.P.C.

It is further submitted that release of the accused person on bail may lead to abscondance of the petitioner and the trial may be impeded.

Having considered the submissions of both sides in context with materials placed in the record, it appears that trial is on the verge of conclusion, and no new circumstances have been made out subsequent to the rejection of prayer for bail of petitioner, warranting a decision afresh, and long incarceration alone, without proof of change in the circumstances, is not sufficient enough to revisit the prayer for bail. We are of considered view that this is not a fit case where petitioner should be released on bail. Accordingly, his prayer for bail is rejected at this stage.

However, we request the trial court to conclude the trial within a reasonable period of time, preferably within a period of six months from date.

It is made clear that in the interest of examination of witnesses proposed to be examined by the defence under section 311 of the Code of Criminal Procedure, the trial court is free to fix consecutive dates so that the logical conclusion of the case may be reached within such stipulated period of time.

Accordingly, the application for bail, being CRM No. 11889 of 2019, is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Subhasis Dasgupta, J.)

(Tapabrata Chakraborty, J.)