

23.08.2021
Court No.30
Item No. 05
Avijit Mitra

**CRM 7954 of 2020
with
CRAN 1 of 2020
(through video Conference)**

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

And

In Re : Shibu Ghosh @ Hoi Ghosh

Petitioner

Mr. Sekhar Kumar Basu, Sr. Adv.,
Mr. Atis Kumar Biswas,
Mr. Amit Kumar Singh

For the Petitioner

Mr. Ranobir Roy Chowdhury,
Mr. Mainak Gupta

For the State

The application being CRAN 1 of 2020 for urgent hearing is allowed and the application preferred by the petitioner under Section 439 of the Code of Criminal Procedure in connection with Tehatta Police Station Case No.532 of 2019 dated 15.11.2019 under sections 302/120B of the Indian Penal Code, being CRM 7954 of 2020, is taken up for hearing.

Mr. Basu, learned senior advocate appearing for the petitioner submits that the petitioner has been falsely implicated and the contents of the complaint do not tally with the statement of the *de facto* complainant, as recorded under Section 161 of the Code. The petitioner is in custody for about one year nine months and there is also no possibility towards early conclusion of trial. Deprivation of personal liberty without ensuring speedy trial

would not be in consonance with the right guaranteed under Article 21 of the Constitution of India. In view thereof, further detention of the petitioner is not warranted in the facts and circumstances of the case.

Per contra, Mr. Roy Chowdhury, learned advocate appearing for the State submits that the statements of the neighbours, as recorded under Section 164 of the Code clearly reveal the direct involvement of the petitioner in the offence. The alleged delay in progress of trial is not solely attributable to the State. Such delay stands intervened by a period lost due to the pandemic.

Having heard the learned advocates and considering the materials in the case diary, the gravity of the offence, the statements of the witnesses, as recorded under Section 164 of the Code and the extent of involvement of the petitioner in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner and the application for bail, being CRM No. 7954 of 2020 is dismissed at this stage.

Needless to observe, the learned court below would make an endeavour to conclude the trial at an early date, if necessary, upon preponing the dates and without granting any unnecessary adjournments to either of the parties.

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.)

