

08.07.2021
tkm/ct 30
sl no. 11

CRM 9626 of 2020
(Through video conference)

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Sagardighi P.S case no. 163 of 2018 dated 4.5.2018 under sections 341/325/326/307/34 of the IPC and added section 302 IPC

And

In Re : Hakim Sk @ Abdul Hakim & Ors. petitioners

Mr. Sarwar Jahan

..... for the petitioners

Mr. N Ahmed

Mr. Anwar Hossain

..... for the State

Mr. Jahan, learned advocate for the petitioners submits that the petitioners have been falsely implicated in the instant case. The petitioner no. 1 suffers from physical disability and cannot even walk without the assistance of crutches. Similarly situated co-accused persons have already been enlarged on bail by a co-ordinate Bench of this court. All the petitioners are presently in custody for more than two years. There is also no possibility towards early conclusion of the trial. Considering the present pandemic situation, the petitioners may be enlarged on bail on any stringent condition.

Mr. Ahmed, learned advocate for the State submits that the petitioners are not similarly situated with the co-accused persons, who have been enlarged on bail by orders dated 4th September 2020, 29th September 2020 and 19th November, 2020 passed in CRM 6266 of 2020, CRM 7188 of 2020 and CRM 8535 of 2020. One Ensan Sk. @ Insan Sk., whose extent of involvement in the alleged offence is similar to that of the petitioner, had been denied

bail by an order dated 18th March 2021 passed in CRM 844 of 2021. Let a copy of the said order, as produced, be kept on record. The report of the Senior Medical Officer regarding the health status of the petitioner no. 1, as produced, be kept on record.

Opposing the petitioners' prayer, Mr. Ahmed draws attention of this court to several documents in the case diary including the statements of eye witnesses, as recorded under section 164 Cr.P.C. and also submits that the delay towards conclusion of the trial which has occasioned is not attributable to the State. Furthermore, the said period stands intervened by a period lost due to the pandemic.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Upon perusal of the statements of the eye-witnesses, as recorded under section 164 Cr.P.C we find that overt acts have been attributed to the petitioners. They are also not similarly situated with the co-accused persons, who have been granted bail.

Considering the gravity of the offence, the statements of eye-witnesses and the extent of involvement of the petitioners in the alleged offence, we are not inclined to exercise any discretion in their favour and as such their prayer for bail is rejected at this stage.

Accordingly, application being CRM 9626 of 2020 is dismissed.

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)