

22.06.2021

Court No.28
Item No.3
(Rejected)

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CRM 10458 of 2020
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Dhaniakhali Police Station Case No. 75 of 2018 dated 24.05.2018 under Sections 341//323/302/379/34 of the Indian Penal Code.

And

In the matter of : **Biswajit Santra @ Bubai.**
...Petitioner

Mr. Satadru Lahiri.

...For the Petitioner

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Manoranjan Mahata.

...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 Dhaniakhali Police Station Case No. 75 of 2018 dated 24.05.2018 under Sections 341//323/302/379/34 of the Indian Penal Code.

The Advocate-on-record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the instant application is taken up for hearing.

The learned Advocate for the petitioner submits that his client is in custody since last three years and the sessions trial has been prolonged because of the non-examination of the investigating officer. He further submits that since there is no likelihood of the trial being completed in near future, the petitioner should be enlarged on bail.

The learned Advocate for the State opposes the prayer for bail. It is submitted that all the witnesses had already been examined and the examination-in-chief of the investigating officer has also been completed on 25th February, 2021. It is submitted that the issue was raised by one of the counsel appearing for co-accused but the cross-examination could not be completed. The next date is fixed on 26th July, 2021 and there is a fair chance that the recording of the evidence would be completed on that day.

Having considered the respective submissions and on perusal of the materials produced before us, we find that the trial has progressed substantially. Even the examination-in-chief of the last witness of the prosecution has been recorded but the matter is lingering because of the cross-examination to be done by the defence side. The next date is fixed on 26th July, 2021.

We hope and trust that the cross-examination of the investigating officer would be ensued on the said date and completed in all respect. If the cross-examination could not be completed on the said date for any reason beyond the conceivable situation, the learned Sessions Judge will fix the date on the next available working day and ensure that the cross-examination is complete in all respect. The learned Counsel for the defence shall co-operate with the learned Sessions Judge and shall not ask for any adjournments except on unforeseen and unavoidable circumstances.

Considering the gravity of the offence that there is a fair chance of conclusion of the recording of the evidence, we do not think that the petitioner is entitled to bail at this stage.

Accordingly, the prayer for bail of the petitioner is rejected with the aforesaid observations.

The application for bail, being CRM 10458 of 2020, is thus **dismissed**.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)