

29.09.2021
Court No.01
Item No. 33
Bail Rejected
Krishnendu

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

(Via Video Conference)

C.R.M. 582 of 2021

In re: An application under Section 439 of the Code of Criminal Procedure filed on 30.04.2021 ;

And

In re: **Subhankar Ghosh @ Papai**

....Petitioner

Mr. Arijit Ghosh

... For the Petitioner

Mr. Niloy Chakraborty

Mr. Sourav Ganguly

... For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Kotwali P.S. Case No. 88 of 2019 dated 05.02.2019 under sections 302/201 of the Indian Penal Code, 1860.

Mr. Ghosh, learned advocate appearing for the petitioner, submits that the petitioner approached this Court earlier praying for bail. The said application, being C.R.M. 161 of 2021, was disposed of by an order dated 3rd February, 2021 with the following observation:

“ In view of the submission made on behalf of the State that the trial has almost concluded and only one witness is left for examination, let the remaining part of the trial be concluded within two months and not later than 9th April, 2021, as has been fairly submitted on behalf of the State”.

He further submits that in spite of such direction , the trial has not yet been concluded and the petitioner is languishing in

custody. In view thereof, he may be enlarged on bail on any stringent condition.

Mr. Ganguly, learned advocate appearing for the State submits, upon instruction, that regular functioning of the learned Court below was disturbed due to the prevailing pandemic situation and as such the trial could not be concluded within 9th April, 2021. The delay is thus not totally attributable to the State.

He further submits that in strict compliance of the earlier order passed by this Court in C.R.M. 161 of 2021, the last witness had already been examined and the next date has been fixed on 30th September, 2021 for examination under section 313 of the Code of Criminal Procedure.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It cannot be disputed that there was a stalemate condition due to the prevailing pandemic situation. The normal functioning of the learned Court below was disturbed. However, as the date for examination under Section 313 of the Code of Criminal Procedure has already been fixed on 30th September, 2021, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused at this stage.

The learned Court below is directed to conclude the trial as early as possible, preferably within 31st January, 2022, without granting any unnecessary adjournment to either of the parties.

The application for bail, being C.R.M. 582 of 2021 is, accordingly, disposed of.

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

(Abhijit Gangopadhyay, J.) (Tapabrata Chakraborty, J.)