

14.06.2021

Court No. 30
Item No. 27
nandy/seth

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

(Via Video Conference)

(bail rejected)

CRM 621 of 2021

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 28.05.2021 in connection with Rajganj Police Station Case No. 126 of 2012 dated 14.07.2012 under Sections 302/34 of the Indian Penal Code.

and

In the matter of: **Nimai Hazra**

..... Petitioner

Mr. Hillol Saha Poddar, Advocate

.....for the Petitioner

Mr. Sourav Ganguly, Advocate

..... for the State

Petitioner seeks bail on the ground of delay in completion of the trial.

Learned Advocate appearing for the petitioner submits that the petitioner is in custody in excess of five years. He relies upon **(1994) 6 SCC 731 (Supreme Court Legal Aid Committee representing Undertrial Prisoners Vs. Union of India & Ors.)** and **2021 SCC Online SC 50 (Union of India Vs. K.A. Najeed)** in support of his contention.

The State is represented.

In Supreme Court Legal Committee (supra) the Supreme Court laid down that in case of delay in trial an accused can be released on bail subject to the conditions prescribed. In Union of India (supra) the Supreme Court after noting that the accused was arrested on 10.04.2015 and that 276 witnesses were yet to be examined, the Court taking note of the conduct of the prosecution

proceeded in uphold the order of grant of bail with added conditions being imposed.

Such facts are not appearing in the present case. There is nothing on record to establish that delay is attributable to the prosecution alone. Moreover, the functioning of the Court was affected by the Covid-19 pandemic for the last two years. In the pandemic condition the Courts were not in a position to conduct trial at the appropriate speed as required. Therefore, the delay in disposal by itself given the pandemic situation should not allow the petitioner to obtain bail on such ground alone.

In such circumstances, we are not inclined to grant bail to the petitioner.

As such, the prayer for bail is **rejected**.

The application being **CRM 621 of 2021** accordingly **dismissed**.

(Debangsu Basak, J.)

(Aniruddha Roy, J.)