

06.07.2021

Court No.28
Item No. JB-06
snandy/adas

(BAIL – REJECTED)

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

(Via Video Conference)

CRM 688 of 2021

In Re:- An application for **bail** under Section **439** of the Code of Criminal Procedure filed on 24.06.2021 in connection with NJP Police Station Case No. 668 of 2020 dated 14.06.2020 under Sections 302/34 of the Indian Penal Code.

and

In the matter of: **Khokon Debnath**

.....Petitioner

Mr. Jaydeep Kanta Bhowmik, Advocate

.....for the Petitioner

Mr. Aditi Sankar Chakraborty, learned A.P.P.

Mr. Sourav Ganguly, Advocate

.....for the State

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

The petitioner has filed the instant application for bail in connection with NJP Police Station Case No. 668 of 2020 dated 14.06.2020 under Sections 302/34 of the Indian Penal Code.

Our attention is drawn to the order dated February 10, 2021 passed in CRM 171 of 2021 by the coordinate Bench while rejecting an earlier application for bail filed by the petitioner. According to the learned Advocate for the petitioner, there was a specific direction that the case should be committed to the Court of sessions immediately and the trial should be completed within 16 weeks from date which should not exceed beyond June 18, 2021. It was further indicated that in the event, the trial is not completed

within the time frame, the petitioner would be at liberty to pray for appropriate order.

The instant application has been taken out by the petitioner renewing the prayer for bail in view of the liberty granted by the coordinate Bench on an earlier occasion. Though the learned Advocate for the petitioner says that the case has not been committed to the Court of sessions but the learned Advocate for the State submits that it has been committed and in fact, the matter has been assigned to the Additional District Judge, Fourth Court, Jalpaiguri.

The learned Advocate for the State further took shelter under the fact that because of the resolution of the Bar, the matter has not progressed. In the course of hearing, it is divulged by the petitioner that the Public Prosecutor in this case has not been appointed. However, the State says that Public Prosecutor has already been appointed but the progress of the case was impeded because of the resolution taken at the Bar.

Mr. Bhowmik, learned Advocate for the petitioner, says that the resolution does not put any fetter in the progress of the case as it was confined only to non-passing of adverse order in absence of either of the counsel. However, he assures the Court that in the event, the trial commences, he would participate in the said proceeding on each day without taking any adjournment except on unforeseen and unavoidable circumstances.

Since the Public Prosecutor has already been appointed and direction was passed by this Court to complete the trial within a specific time, we feel that alacrity should be shown by the learned Sessions Judge in adhering to the time limit as indicted in the

order passed by this Court.

Admittedly, charges have not been framed yet. We thus direct the learned Sessions Judge to frame charges within fortnight from the date of communication of this order. The learned Sessions Judge shall fix the dates for recording evidence of the charge-sheeted witnesses and all efforts should be shown to complete the trial within eight months from the date of framing of charges. It goes without saying that neither the learned Advocate for the petitioner nor the learned Public Prosecutor would seek time or adjournment on the date fixed for recording evidence. It is expected that that the learned Public Prosecutor will bring the witnesses as shown in the charge-sheet on the date so fixed by the learned Sessions Judge so that the trial is brought to its logical conclusion within the stipulated time.

Though it is a case based on circumstantial evidence but we do not find any changed circumstances between the dates on which the earlier application was rejected and the filing of the instant application except that there was no progress in the trial, we do not find it a fit case where the petitioner should be enlarged on bail.

The prayer for bail is **rejected**.

The application being **CRM 688 of 2021** is accordingly **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)

