

17.12.2021
SL No .41
Court No.1
(PJ/SK)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

**CRM 869 of 2021
(Via video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Kotwali P.S. Case No. 178 of 2021 dated 21.03.2021 under Sections 302/34 of the Indian Penal Code, corresponding to Sessions Case No. 32 of 2021.

And

In the matter of : **Hemanta Roy @ Ray**

- Petitioner.

Mr. Hillol Saha Podder,
Ms. Arpita Saha

... For the Petitioner.

Mr. Aditi Shankar Chakraborty, APP,
Mr. Biswarup Roy

... For the State.

The learned counsel for the petitioner submits that the petitioner is innocent and languishing in jail for more 272 days. It is submitted that two co-accused persons were granted bail by Co-ordinate Benches of this Court and the petitioner is standing on the same footing. There is no possibility of commencement of trial and accordingly, the petitioner has prayed for bail.

The learned Counsel for the prosecution has opposed the prayer for bail. It is submitted that the petitioner is one of the principal accused and in support of the said submission, page 185 of the case diary has been referred. It is a statement of Nemai

Barman, recorded under Section 164 of the Code of Criminal Procedure. It is further submitted that as per statement made by the independent witnesses under Section 161 of the Code of Criminal Procedure implicating the petitioner as well.

The learned Counsel for the prosecution further submits that the trial could not commence as four accused persons are still absconding.

In view of the aforesaid, the learned Trial Court is requested to split the trial, if so required, and to proceed with the matter as expeditiously as possible. In the event, in case of inordinate delay in commencing the trial, the petitioner shall be at liberty to renew his prayer for bail.

The prayer for bail at this stage is dismissed.

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

(Biswajit Basu, J.)

(Soumen Sen, J.)