

14.03.2022
Sl. 32
Court No.29
sourav
(Rejected)

C.R.M. 3539 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **21.04.2021** in connection with **Sankrail** P.S. Case No. **743** of **2017** dated **24.09.2017** under Section **498A/302/201/34** of the Indian Penal Code.

And

In the matter of: **Subhajit Hazra @ Kartick Hazra**

....petitioner.

Mr. Anand Keshari
Mr. Sekhar Mukherjee
Mr. Gourav Kumar

...for the petitioner.

Ms. Faria Hossain
Mr. Aniket Mitra

...for the State.

Report as called for by the order dated March 3, 2022 filed in Court today be taken on record.

It appears from the report that the next date fixed by the trial court is March 15, 2022 for the purpose of recording the evidence of the prosecution.

Learned advocate appearing for the petitioner submits that taking into consideration the period of detention of the petitioner and taking into consideration the fact that the other co-accuseds are on bail, the court should grant bail to the petitioner. He highlights the period of detention of the petitioner being more than four and half years. He relies upon 2021(3) *Supreme Court Cases 713 (Union of India Vs. K. N. Najib)* in support of his contention that an accused is entitled to access justice and a speedy trial.

In the facts of the present case, the petitioner is charged with an offence of murder of his wife by strangulation. There are materials in the case diary implicating the petitioner in the offence.

The petitioner cites the delay at the trial for the purpose of obtaining an order for bail.

K. N. Najib (supra) considers the prayer for bail in the light of gross delay in disposal of the trial which would justify invocation of article 21 of the Constitution of India and consequential necessity to release the under trial on bail. In the facts of that case, the Supreme Court enlarged the accused on bail after finding that the accused therein was in custody for a period in excess of five years.

In the present case, there are materials in the case diary including statements recorded under Section 161 and 164 of the Criminal Procedure Code implicating the petitioner in the incident of murder.

The period of four and half years that the petitioner claims to spend in custody without the possibility of trial was largely contributed to the ongoing pandemic. It cannot be said with certainty that the prosecution was indolent in conducting the trial. In any event, the next date before the trial court is March 15, 2022 for the purpose of recording the evidence of prosecution.

In the facts of the present case, therefore, we are unable to grant bail to the petitioner. However, we request the learned trial court to expedite the trial and not grant any unnecessary adjournments to any of the parties. The trial court is also requested to fix consecutive dates for the purpose of recording the evidence and make every endeavour to adhere to the same.

Accordingly, the prayer for bail of the petitioner is rejected.

C.R.M. 3539 of 2021 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

