

13.06.2022
cm/ct 28
sl no. 26

C.R.M. (DB) 1367 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Katwa P.S. Case No. 189 of 2013 dated 01.06.2013 under Sections 448/302/120B/34 of the Indian Penal Code, 25/27/35 of the Arms Act and 3 /4 Explosive Substance Act.

And

Allowed

In Re : Safik Sk @ Safik Sekh

..... petitioner

Ms. Shabana Hasin

..... for the petitioner

Mr. Madhusudan Sur, Ld. A.P.P.

Mr. Dipankar Paramanick

..... for the State

Petitioner is in custody for nine years. It is submitted that there is slow progress in the trial of the case.

Learned lawyer for the State opposes the prayer for bail and submits report with regard to the status of the proceedings.

Report is placed on record.

It appears from the report that the case was committed in 2013 and charge had been framed only on 17.02.2022. Two witnesses have been examined on 16.06.2022 and 17.06.2022 respectively. It is further contended that the Court was lying vacant from July 2019 to December, 2020.

Even if one discounts the period for which the Court was lying vacant, there is no explanation for the inordinate delay of about a decade for framing charges since commencement. No doubt, allegations against the petitioner are grave and he appears to be the principal accused. However, inordinate delay in conducting trial resulting in under-trial incarceration for more than 9 years infracts the petitioner's fundamental right to speedy trial

under Article 21 of the Constitution of the India. Only two witnesses have been examined till date and a large number of witnesses are yet to be examined. Hence, there is little possibility of the trial concluding in near future. Under such circumstances, in view of inordinate delay in conducting trial, we are of the opinion petitioner is entitled to grant bail.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned ACJM, Katwa, East Burdwan on condition that the petitioners shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM(DB) No. 1367 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)