

15.02.2022
Sl. 82
Court No.29
sourav
(Rejected)

C.R.M. 6941 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **25.10.2021** in connection with **Durgachak** P.S. Case No. **30** of **2020** dated **18.02.2020** under Sections **302/201/120B/34** of the Indian Penal Code.
And

In the matter of: **Sk. Saddam Husan**

....petitioner.

Mr. Ayan Basu
Mr. Sourav Bera
Mr. Sumit Routh

...for the petitioner.

Mr. Sudip Ghosh
Ms. Sonali Das

...for the State.

Petitioner renews the prayer for bail.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for over two years. The police filed charge-sheet. Therefore, further detention of the petitioner is not required. He draws the attention of the Court to the earlier order of rejection dated May 20, 2021 passed in CRM 7610 of 2020. He submits that the delay in trial is not due to the reason of the petitioner. He submits that out of 47 prosecution witnesses only ten witnesses were examined at the trial.

Learned advocate appearing for the State draws the attention of the Court to the contents in the case diary.

There is an earlier order of rejection dated May 20, 2021 passed in CRM 7610 of 2020 which records the request to the jurisdictional court to conclude the examination of the witnesses preferably within one year from the date of the communication of the order unless COVID circumstances intervene and disrupt the functioning of the Court.

Judicial notice of the fact that COVID in the third wave did impact functioning of the Court should be taken.

Moreover, the period of one year from May 20, 2021 is yet to be over.

That apart, there is hardly any change in circumstances subsequent to the earlier order of rejection.

Consequently, we are unable to grant bail to the petitioner. Attention to the Court was drawn by the learned advocate for the petitioner to an order dated September 2, 2021 by which the jurisdictional court issued warrant of arrest against two prosecution witnesses.

Such effort by the jurisdictional court merely reemphasizes the fact that the jurisdictional court was aware of the order dated May 20, 2021 of the High Court and the requirement of an expeditious disposal of the trial. We request the jurisdictional court to comply with the order dated May 20, 2021 to the extent possible.

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

C.R.M. 6941 of 2021 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

