

12.12.2022
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allowed

CRM(DB) No. 2715 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagnan Police Station Case No. 110 of 2009 dated 08.05.2009 under Sections 147/148/149/302/325/379/427/435/448 of the Indian Penal Code and Section 9(B) of Indian Explosives Act.

And

In Re : Sk. Sekendar @ Sekh Sekendar Ali & Anr. petitioners

Mr. Achin Jana
Mr. Suman Chakraborty
Mr. Prosenjit Ghosh
Ms. Gargi Dhang

.....for the petitioners

Mr. Neguive Ahamed, learned APP
Ms. Trina Mitra

..... for the State

Learned Counsel appearing for the petitioners submits they are in custody for more than 11 years.

Inspite of direction given by this Court with regard to submission of report relating to the progress of the matter and reason for delay, an evasive report is filed on behalf of the investigating agency.

Though allegations against the petitioners are grave, in view of the protracted period of detention suffered by the petitioners we are of the opinion further detention would infract their fundamental right to speedy trial under Article 21 of the Constitution of India. We take serious note of the fact delay in the trial was engineered due to non-attendance of official witness who is a retired police officer. Petitioners do not appear to have

contributed to the delay. Under such circumstances, we are inclined to grant bail to them.

Accordingly, we direct that the petitioners viz. Sk. Sekendar @ Sekh Sekendar Ali and Sk. Rejaul @ Sk. Rejaul Ali shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District & Sessions Judge, 1st Court at Howrah, on condition that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

Copy of this order be sent to the Superintendent of Police, Howrah, who shall look into the matter and take appropriate steps against the police officer who did not attend the trial proceedings resulting in delay.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)