

**CRM 8575 of 2021**

In re : An Application for bail under Section 439 of the Code of Criminal Procedure filed on 13.12.2021 in connection with Ultadanga Police Station Case No. 152 of 2011 dated 23.09.2011 under Sections 302/34/379/511/201 of the Indian Penal Code.

-And-

In the matter of : **Dinesh Yadav**

**... ..Petitioner**

Mr. Mrityunjay Chatterjee, Advocate

Mr. Kaushik Dey, Advocate

... .. For the Petitioner

Mr. Neguive Ahmed, Advocate

Ms. Amita Gaur, Advocate

... .. For the State

Petitioner seeks bail.

Learned Advocate appearing for the petitioner submits that the petitioner is incarcerated in jail for a period in excess of 10 years without the possibility of trial concluding any time soon. He submits that the prosecution proposes to examine about 56 witnesses. Only 18 witnesses were examined. Despite earlier direction of the Court for expeditious disposal of the trial, no headway was made with regard to the trial.

Learned Additional Public Prosecutor submits that the petitioner is guilty of a grievous offence. He draws the attention of the Court to the evidence led till this date. He submits that the petitioner is without any residence within the State of West Bengal. There is every likelihood of the petitioner fleeing in the event bail is granted. He submits that delay in the trial cannot be attributed only on the prosecution. On at least 31 dates the defence was not represented before the trial Court.

On one hand there is the period of detention of the petitioner and the other there is a grievous offence. The trial is not in progress. Delay cannot be attributed to the prosecution alone. The defence also attributed to the delay by taking adjournments on at least 31 occasions. The ongoing pandemic also imparted the trial.

In such circumstances, in our view for the ends of justice would be subserved by requesting the trial Court to proceed with the trial on a day-to-day basis commencing from the next date of the trial without granting any unnecessary adjournment to either of the parties. The Court is informed that the next date fixed for the purpose of recording evidence of the prosecution is March 7, 2022. The trial Court will fix consecutive dates of trial thereafter on March 7, 2022 and will endeavour to adhere to such dates without affording any unnecessary adjournments to either of the parties.

It is expected that the trial is concluded within a period of six months from date.

Considering the gravity of the offence and the involvement of the petitioner therein and considering the fact that there is hardly any material change in circumstances subsequent to the earlier order of rejection, we are unable to grant bail to the petitioner at this stage.

CRM 8575 of 2021 is rejected.

Learned Additional Public Prosecutor is requested to communicate this order to trial Court, through prosecution before the trial Court.

**(Debangsu Basak, J.)**

**(Bibhas Ranjan De, J.)**