

23.09.2022

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rejected

C.R.M. (DB) No. 3230 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 334 of 2012 dated 26.05.2012 under Sections 436/302/326/34 of the Indian Penal Code.

And

In Re : Rajikul Momin @ Md. Rajikul Momin petitioner

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

Ms. Shalini Bairagi

... for the petitioner

Ms. Zareen N. Khan

Mr. Ashok Das

... for the State

Copy of the report submitted by learned Counsel appearing for the State be kept on record.

Learned Counsel appearing for the petitioner submits he is in custody for three and half years. Bail prayer was rejected in December, 2021. It is also submitted that there is no progress in the trial of the case since the rejection of his bail prayer by this Court. Co-accuseds are on bail. He renews his prayer for bail.

Learned Counsel appearing for the State opposes prayer for bail and submits report with regard to the status of the proceeding and reasons for delay.

It appears from the report that charge was framed on 19.12.2020 and on 04.02.2021 date was fixed for recording

evidence but no one turned up on that date. On 10.06.2021 and 11.06.2022 no evidence could be recorded as Presiding Officer was on leave. Thereafter in December, 2021 bail prayer of the petitioner was rejected by this Court and direction was given to conclude the trial as expeditiously as possible preferably within one year. It also appears from the report since 24.11.2021 trial court is lying vacant. As a result, trial could not be held.

Under such circumstances, delay in trial cannot lie at the doorstep of the prosecution. Petitioner had absconded for seven years. In this backdrop, we are not inclined to grant bail to the petitioner on the score of delay.

The application for bail is, thus, rejected.

We are also unwilling to give direction for speedy conclusion of trial at present as the trial court is still lying vacant.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)