

24.11.2022.  
30.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (DB) 4116 of 2022**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Beliaghata P. S. Case No.283 of 2017 dated 14.11.2017 under Sections 392/307 of the Indian Penal Code.

In the matter of : Noor Islam Sk. @ Chand.

.... Petitioner.

Mr. Angshuman Chakraborty,  
Mr. S. S. Saha.

...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,  
Mr. Dipankar Paramanick.

...for the State.

Petitioner is in custody for more than five years. He prays for bail in view of the inordinate delay in the light of Section 436A of the Code of Criminal Procedure.

Learned Advocate for the State opposes the prayer for bail. He submits petitioner has been charged under Section 307 of the Indian Penal Code which attracts life imprisonment. Hence, Section 436A of the Code of Criminal Procedure is not attracted to the case.

In reply, it is submitted victim did not suffer hurt.

We have considered the materials on record including the evidence of the doctor, PW8. Doctor notes scratch marks on the front of the throat of the victim. Hence, we are in agreement with learned Advocate for the State that petitioner is not entitled to the privilege of bail under Section 436A of the Code of Criminal Procedure.

Be that as it may, it is undeniable petitioner has suffered imprisonment for more than five years. Official witnesses are left to be examined. Hence, release of bail of the petitioner on the ground of inordinate delay infracting his right to speedy trial under Section 21 of the Constitution of India would not adversely affect the course of trial. Hence, we are inclined to enlarge the petitioner on bail on such score.

Accordingly, the petitioner shall 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 Additional Chief Judicial Magistrate, Sealdah, South 24-Paraganas subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

**(Ajay Kumar Gupta,J.)**

**(Joymalya Bagchi, J.)**