

14.07.2022.

Item No. 9

ap

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (DB) No. 246 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 12.07.2022 in connection with Kumargram Police Station Case No. 191 of 2017 dated 09.09.2017 under Sections 302/34 of the Indian Penal Code.

And

In the matter of: **Dulal Sarkar & Anr.** ...petitioners

Ms. Suman Sehanabis (Mandal),
Mr. Sudhindra Das. ...For the petitioners

Mr. Aditi Sankar Chakraborty,
Mr. Sourav Ganguly.For the State

The application for bail is canvassed on the ground that a Co-ordinate Bench of this Court had, on 2nd November, 2021, directed the trial to be completed within 45 days from 8th November, 2021.

It appears from the record that the trial continues till date and some of the witnesses did not turn up on two consecutive dates. It further appears that on the same dates even Public Prosecutor was not present.

This Court notes with anguish that the manner in which the trial is being conducted.

The provisions for enforcement of the presence of the witnesses ought to have been exercised by the Court below.

In view of the facts as aforesaid, this Court is of the view that the petitioners shall be entitled to interim bail.

Let the petitioners be released on bail upon furnishing bond of Rs.20,000/- each with two sureties of Rs.10,000/- each, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Alipurduar.

It is also directed that the petitioners should not leave the local jurisdiction of the Court or the place of their residences without prior permission of the jurisdictional Court until further orders and the petitioners shall also not interact with any of the witnesses.

It is further directed that after release, the petitioners shall attend the jurisdictional Court when the matter is fixed for hearing unless they are prevented by any reason beyond their control.

We make it clear that if the petitioners fail to make themselves available before the Trial Court, the Trial Court shall have the liberty to cancel the bail granted to the petitioners and take them into custody without any further reference to this Court.

It is ordered that the learned Additional Session Judge, Fast Track Court-I at Alipurduar shall complete the trial mandatorily and positively within a period of one month from date. It is further ordered that all measures for enforcement of the attendance of any witness shall be taken. It is also ordered that the trial shall be held and completed on a day to day basis and judgment shall be

pronounced not later than for a period of one week after conclusion of argument of the parties.

C.R.M. (DB) No. 246 of 2022 is, thus, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ananda Kumar Mukherjee, J.) (Rajasekhar Mantha, J.)