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14-01-2022
(ct. no.1)
KOLE
Allowed

Circuit Bench of Calcutta High Court At Jalpaiguri
CRM 1286 of 2021

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Matigara Police Station** Case No. **331 of 2003** dated **24.12.2003** under Sections **302/201/34** of the Indian Penal Code.
- A n d -

In the matter of : Rakesh Rai & Anr.

.... Petitioners.

Mr. S. Sethia,

... For the Petitioners.

Mr. A. S. Chakraborty, Ld. APP,
Mr. S. Ganguly,

... For the State.

Report filed by the State be kept with the record.

We are not happy with the explanation given for the trial being pending for 18 years.

Be that as it may, we have considered the material in the case diary. On an assessment of the statements of witnesses and other material, *prima facie*, it cannot be said that the petitioners have no chance of being acquitted. They have already spent 18 years in custody.

The State opposes the prayer for bail.

On an overall assessment of the facts and circumstances of the case and in view of the very long period of detention of the petitioners, we are inclined to allow their prayer for bail.

Accordingly, we direct that the petitioners, namely, **Rakesh Rai and Tenzing Sherpa @ Tamang**, 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 Sessions Judge, 2nd Court, Siliguri and on further conditions that they shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The 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 adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

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

(**Aniruddha Roy, J.)**

(**Arijit Banerjee, J.)**