

07.02.2023
Sl. No.30
akd
[Rejected]

C. R. M. (DB) 470 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.01.2023 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. (G.R. Case No.2230 of 2012)

And

In Re: ***Rajikul Momin @ Md. Rajikul Momin***

... .. Petitioner

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

... .. for the petitioner

Ms. Zareen N. Khan

Md. Kutubuddin

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted inspite of direction given by this court in CRM 8153 of 2021, trial has not concluded. Co-accuseds have been enlarged on bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner had absconded for seven years. Case involves murder of a minor child. Delay in the matter was due to vacancy in the trial court. Presently, judicial officer has joined and date has been fixed for recording of evidence.

We have considered the materials on record. Petitioner absconded for more than seven years. This delayed the trial and co-accuseds were enlarged on bail. In view of the aforesaid conduct, petitioner cannot claim parity with co-accuseds. No doubt, he is in custody for more than four years. In view of his previous conduct, chance of abscondence cannot be ruled out. Delay in trial was due to systemic reasons i.e. vacancy in the trial court. Presently, examination

of witnesses is about to commence. At this stage, we are not inclined to enlarge the petitioner on bail.

The application for bail is thus **rejected**.

We however, direct the trial court to give precedence to the trial and conclude the same at an early date preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournments to either of the parties.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)