

10.02.2023
Sl. No.41
akd
[ALLOWED]

C. R. M. (DB) 563 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.02.2023 in connection with Jagacha Police Station Case No.33 of 2013 dated 23.01.2013 under Sections 302/34 of the Indian Penal Code, Sections 25/27 of the Arms Act and Sections 3/4 of the Explosive Substances Act.

And

In Re: **Basu Deb @ Basudeb Deb @ Basa @ Prasanta Deb @ Dey**
... .. Petitioner

Mr. Soumya Basu Roy Choudhuri
... .. for the petitioner

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Mrs. Sonali Das
... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about ten years. It is further submitted there is inordinate delay in trial.

Learned Additional Public Prosecutor opposes the prayer for bail and submits delay was engineered by the accused.

We have considered the materials on record. Eleven witnesses have been examined in full. Official witnesses are left. A police officer was examined as PW12. On six dates he failed to turn up. The only excuse offered is maintenance of law and order. If that were so, we are at a loss why video linkage was not utilised for examination of the said witness. Thereafter, cessation of work by lawyers contributed to the delay. These circumstances show scant regard by the stakeholders to the constitutional commitment of speedy trial. Petitioner has languished in jail for more than ten years. He cannot be said to be responsible for such inordinate delay. Under such circumstances, we

are of the opinion petitioner is entitled to bail on the ground of inordinate delay.

Therefore, the accused/petitioner, namely **Basu Deb @ Basudeb Deb @ Basa @ Prasanta Deb @ Dey**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah subject to condition that the said petitioner 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 he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)