

10.02.2023
Sl. No.46
akd
[ALLOWED]

C. R. M. (DB) 569 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 Dum Dum Police Station Case No.1026 of 2016 dated 24.10.2016 under Sections 399/402 of the Indian Penal Code read with Section 14 of the Foreigners Act and Sections 3/4 of the Explosive Substances Act.

And

In Re: ***Nur Islam @ Noor Islam***

... .. Petitioner

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee
Mr. Abhijit Singh

... .. for the petitioner

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than six years. It is further submitted there is no possibility of the trial concluding in near future.

Learned Advocate for the State opposes the prayer for bail and submits petitioner is a foreign national. Co-accuseds absconded in the midst of trial resulting in delay.

We have considered the materials on record. Petitioner is in custody for more than six years. Offences, if proved, would not attract mandatory life imprisonment. Though it is contended petitioner is a foreign national, continuation of undertrial detention with bleak possibility of trial concluding in near future is an infraction of his right to speedy trial under Article 21 of the Constitution of India.

Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

Therefore, the accused/petitioner, namely ***Nur Islam @ Noor Islam***, be released on bail upon furnishing a bond of Rs.50,000/- (Rupees Fifty thousand only), with two sureties of like amount each, one of whom shall be Abu Taleb Molla @ Abutaleb Molla, whom the petitioner claims to be his father, to the satisfaction of the learned Additional Chief Judicial Magistrate, Barrackpore, North 24-Parganas 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 and on further condition that the petitioner, while on bail, shall reside with Abu Taleb Molla @ Abutaleb Molla, whom the petitioner claims to be his father, within the jurisdiction of Airport Police Station till the conclusion of trial and shall report to the Officer-in-charge, Airport Police Station once in a week until further orders.

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.)