

21.03.2023
Sl. No.27
akd
[ALLOWED]

C. R. M. (DB) 945 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 09.03.2023 in connection with Girish Park Police Station Case No.188 of 2015 dated 01.06.2015 under Sections 302/201 of the Indian Penal Code.

And

In Re: ***Alam Ali***

... .. Petitioner

Ms. Devi Priya Mitra

... .. for the petitioner

Ms. Faria Hossain

Mr. Anand Kesari

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about seven years and nine months. It is further submitted inspite of direction given by this court in CRM 5738 of 2021 and CRM (DB) 3674 of 2022 respectively, trial has not concluded.

Learned Advocate for the State opposes the prayer for bail and submits eight witnesses have been examined. Earlier order directing conclusion of trial preferably within one year was not communicated to the trial court.

We have considered the materials on record. Petitioner is languishing in jail for more than seven years. Even if the earlier order was not communicated to the trial court, it is the bounden duty of the prosecution to conduct the case with due expedition and conclude the same within a reasonable time. It is contended that the presiding officer was absent on a number of dates. Even if one discounts such systemic delay, no explanation is forthcoming why the prosecution has been able to examine only eight witnesses till date. It proposes to examine 32 witnesses in all and there is no possibility of the trial concluding in near

future. Under such circumstances, 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 **Alam Ali**, 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 Metropolitan Magistrate, City Sessions Court, Bichar Bhawan, Calcutta 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 not leave the jurisdiction of Daspur Police Station except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Daspur 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.)