

28.03.2023
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allowed

CRM(DB) No. 973 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bishnupur Police Station Case No. 429 of 2017 dated 21.04.2017 under Sections 302/382/411/120B of the Indian Penal Code.

And
In Re : Biplab Majumder petitioner

Mr. Anand Keshari
Ms. Sutapa Ghosh
.....for the petitioner

Mr. T. D. Nandy
Mr. Antarikhya Basu
.... for the State

Learned Counsel for the petitioner submits he is in custody for more than five years. It is also submitted there is no direct evidence connecting the petitioner with the murder. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits offending weapon was recovered on the showing of the petitioner. Stolen articles were also recovered from the residence of the petitioner and his wife. Six witnesses have been examined.

We have considered the materials on record. There is no direct evidence connecting the petitioner with the crime. Whether the circumstances would be sufficient to establish the complicity of the petitioner in the murder requires to be assessed during trial. Only six out of twenty five charge-sheeted witnesses have been examined. There is little possibility of trial concluding in the near future. In view of the aforesaid circumstances, we are of the

view fundamental right of the petitioner to speed trial has been infracted and he is entitled to bail on this score.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore, subject to the conditions that petitioner 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 petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)