

30.03.2023
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allowed

CRM(DB) No. 1235 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Task Force Case No. 6 of 2019 dated 16.02.2019 under Sections 120B/130 of the Indian Penal Code subsequently added Sections 465/468/471 of the Indian Penal Code and Sections 4/5 of Explosive and Substance Act along with Sections 16/18/19/20 of Unlawful Activities (Prevention) Act and under Section 14 of Foreigners Act and subsequently charge-sheet submitted under Sections 120B/130 of the Indian Penal Code and Sections 5/6 of the Explosive Substances Act and Sections 18/20 of Unlawful Activities (Prevention) Act.

And

In Re : Manirul Islam @ Doctor petitioner

Ms. Jhuma Sen
Mr. Masum Ali Sardar
Mr. Sanjoy Das

.....for the petitioner

Mr. Ranabir Roychowdhury
Mr. Mainak Gupta

..... for the State

Learned Counsel for the petitioner submits he is in custody for more than four years. It is also submitted he was arrested on 08.03.2019 and the organization was banned on 23.05.2019. Hence, he was not member of a banned organization at the time of his arrest. Co-accused who were tried with the petitioner had pleaded guilty and had been sentenced for a maximum period of five years and nine months. Only one witness has been examined in full and there is no possibility of trial concluding in the near future. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits petitioner was a member of a banned organization and a laptop was recovered from his possession.

We have considered the materials on record. '*JMB*' was notified as a banned organization on 23.05.2019. Petitioner had been already arrested by then. It cannot be said that he voluntarily continued as a member of the said organization after the same had been declared unlawful. This issue may be thrashed out during trial but the petitioner is in custody for more than four years. Co-accused who had pleaded guilty had been awarded a maximum sentence of less than six years. Only one witness has been examined in full and another has been examined in part. There is little possibility of trial concluding in the near future. Keeping in mind the slow progress of trial and as the petitioner has suffered incarceration for more than four years when the maximum sentence imposed on the co-accused on the selfsame charge is five years and nine months, we are of the view his continued detention would amount to infraction of his fundamental right to speedy justice and he is entitled to bail on this score. Bail prayer of the petitioner on this ground is not fettered by Section 43(D)(5) of the UAPA Act. Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judge, City Sessions Court, Calcutta, on further conditions that while on bail the petitioner shall remain within the jurisdiction of Municipal limits of Kolkata until further orders except for the purpose of attending court proceeding and shall provide the addressed where he shall

presently reside to the investigating officer as well as the court below and shall report to the Officer-in-Charge of the concerned police station within whose jurisdiction he shall presently reside once in a week until further orders. 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 comply with the aforesaid conditions 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.)