

13.04.2023.
33
Ct.No.28
as
(Allowed)

C.R.M. (DB) 1283 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Madhyamgram P. S. Case No.873 of 2014 dated 04.12.2014 under Sections 302/342/120B/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

In the matter of : Maharam Ali & Anr.

.... Petitioners.

Mr. Soubhik Mitter,
Mr. Litan Maitra,
Mr. Kalyan Kr. Bhattacharjee,
Ms. Rajnandini Das.

...for the Petitioners.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Manoranjan Mahata.

...for the State.

Petitioners are in custody for more than eight years. They submit there is delay in trial and renew their prayer for bail.

Learned Advocate for the State opposes the bail prayer. He submits trial is at its fag end. Prosecution evidence has been closed. Date has been fixed for examination under Section 313 of the Code of Criminal Procedure.

We have considered the materials on record. Allegations are grave but petitioners have suffered under-trial detention for more than eight years. In spite of direction given by this Court in CRM (DB) 2796 of 2022 to conclude trial within six months, the trial has not concluded. Delay is primarily on the ground of vacancy in the trial court. Though such delay cannot be

attributed to the parties, in view of the protracted period of detention suffered by the petitioner, we are inclined to extend the privilege of bail subject to strict conditions.

Accordingly, the petitioners viz., Maharam Ali and Soumitra Bhowmik @ Mithun shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat, North 24-Paraganas subject to condition that they 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 remain within the District of North 24-Paraganas and report to the Officer-in-charge, Madhyamgram Police Station once in a week until further orders.

In the event the petitioners fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

Presence of the Investigating Officer is noted and dispensed with.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

