

01.05.2023.
31.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 1635 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jorasanko P. S. Case No.498 of 2017 dated 24.10.2017 under Sections 302/34/394/120B of the Indian Penal Code.

In the matter of : Ansu Kumar Singh @ Goltu.

.... Petitioner.

Mr. Ayan Bhattacharya,
Mr. Aniruddha Bhattacharya,
Mr. Ritwika Ghosh,
Mr. Uttam Mukherjee.

...for the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta.

...for the State.

Petitioner is in custody for more than five years. He is a child in conflict with law. Pursuant to a preliminary assessment under Section 17 of Juvenile Justice (Care & Protection) Act, 2015 (hereinafter referred to as 'the said Act of 2015'), petitioner was directed to be tried as an adult in terms of sub Section (3) of Section 18 of the said Act. Trial is not progressing at a fast pace. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits report with regard to the status of the trial.

We have considered the materials on record. There are materials implicating the petitioner in the crime. Three out of 59 witnesses have been examined so far. Petitioner, who is a child in conflict with law, cannot be imposed a sentence of death or life imprisonment. He has suffered incarceration for

more than five years. There is little possibility of trial concluding in the near future.

Under such circumstance, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner Ansu Kumar Singh @ Goltu 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 Metropolitan Magistrate, Calcutta subject to condition that he 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.

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

We note that the delay in trial is due to the fact while petitioner is being tried before the Children's Court, other three co-accused viz., Anand Mallick @ Kallu, Md. Reyaz and Md. Ashar Firdousi @ Md. Ashar are tried before the Additional Sessions Judge, Fast Track Court-II, Bichar Bhawan, Kolkata.

It may not be out of place to note that the learned Judge, Bench-II, City Sessions Court, Calcutta has been notified as Children's Court. The said Court is also trying cases involving adults. Though Section 23 of the Act of 2015, inter alia, bars joint trial of a child in conflict with law with an adult, the self-same Court, if notified as Children's Court may try the

cases of the child in conflict with law and adult co-accused arising out of the same transaction one after another. This would be convenient for parties to adduce evidence before the same court and would avoid conflict of decisions.

Under such circumstances, we direct as follows:-

- 1) Trial of co-accused viz., Anand Mallick @ Kallu, Md. Reyaz and Md. Ashar Firdousi @ Md. Ashar pending before the Additional Sessions Judge, Fast Track Court-II, Bichar Bhawan, Kolkata be transferred to the learned Judge Bench-II, City Sessions Court, Calcutta and be tried from the stage it has already arrived at;
- 2) Both the cases i.e. one against the petitioner and the other against the adult accused shall be tried one after another;
- 3) The cases shall be disposed of expeditiously preferably within one year from the next date fixed for recording evidence in the said cases. Parties shall co-operate with the trial court in expeditious disposal of the cases.

Department is directed to send copy of this order to the trial court for due compliance.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

