

02.08.2023.
22.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 2070 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baduria P. S. Case No.815 of 2016 dated 22.11.2016 under Sections 369/370(5)/315/120B/34/ 367/368/ 419/420/ 201/ 467/ 304 of the Indian Penal Code read with Sections 75/80/81 of the Juvenile Justice (Care & Production) Act.

In the matter of : Prava Pramanik @ Prabha Pramanik.
... Petitioner.

Mr. Soumen Kr. Dutta,
Mr. Sabyasachi Bhattacharjee.
...for the Petitioner.

Mr. Saswata Gopal Mukherji, ld. P.P.,
Mr. Rudradipta Nandy, ld. A.P.P.
Mrs. Sonali Das.
...for the State.

Petitioner has strenuously argued that his right to speedy trial has been infringed. He is in custody for more than seven years and the trial court has not been able to conclude trial inspite of directions given by this Court. He relies on *Rabi Prakash Vs. The State of Odisha*¹.

Learned Public Prosecutor submits trial is at its fag end. The last prosecution witness i.e. Investigating Officer was examined and dates have been fixed for his further examination on 17th and 18th August, 2023.

We have considered the materials on record. Petitioner is one of the principal accused who is involved in the illegal sale of babies from nursing home. Co-accused viz., doctors have been enlarged on bail. Petitioner is the principal conduit through whom the illegal sale of babies were arranged. It

¹ SLP (Crl) No.4169 of 2023 dated 13.07.2023

cannot be said that his degree of culpability is the same with the co-accused viz., doctors who manned the nursing home. That apart, trial is at its fag end and the examination of the last prosecution witness is in progress.

In *Rabi Prakash* (Supra), the Hon'ble Apex Court, inter alia, held grant of bail by the Constitutional Court on the ground of inordinate delay and breach of Article 21 of the Constitution of India stands on a different footing from a prayer on merits.

We are conscious of our powers to grant bail on the ground of inordinate delay. While considering bail prayer on such score, Courts must not only consider the protracted period of detention but also the stage of the proceeding. Presently, the criminal trial is at its fag end and in all probability the case will come to its logical conclusion in a couple of months.

Under such circumstances and bearing in mind the gravity of the offence and the evidence adduced against the petitioner as a prominent player in an organised crime activity involving trafficking of babies, we are not inclined to enlarge the petitioner on bail.

Accordingly, the prayer for bail of the petitioner is rejected.

We direct the trial court as follows:

- 1) Examination of the investigating officer shall be concluded in the course of next schedule i.e. on 17th and 18th August, 2023. No adjournment shall be

given to either of the parties. The schedule shall not be disturbed by other systemic reasons like cessation of work in the courts etc.

- 2) In the event, the witness cannot be examined in the course of the said schedule, it must be concluded within seven days thereof.
- 3) Thereafter, the trial court shall examine the accused persons under Section 313 of the Code of Criminal Procedure. No adjournment shall be given on the ground of non-availability of the accused. In the event, an accused is not produced the trial court is at liberty to ensure his attendance through video linkage. To avoid delay, questionnaire may be handed over to the accused and their written statements as envisaged under Section 313(5) of the Code of Criminal Procedure be obtained. This exercise shall be concluded within 15 days from the date of closure of prosecution evidence.
- 4) In the event, defence does not wish to adduce evidence, the arguments of the parties shall be concluded not later than a fortnight from the date of completion of examination of accused under Section 313 of the Code of Criminal Procedure.
- 5) Judgment shall be delivered within two months from the date of conclusion of arguments.

The aforesaid schedule is pre-emptory and shall be adhered to. In case of failure, petitioner is at liberty to

approach this Court for bail. Parties shall co-operate with the trial Judge to conclude the trial as proposed.

Copy of this order be communicated to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)