

25.07.2023.
24.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2758 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with CBI/SCB/Kolkata Case No.RC/2/S/12-Kol dated 01.03.2013 under Sections 302/467/471/201/34 of the Indian Penal Code.

In the matter of : Somnath Roy @ Sunny.

.... Petitioner.

Mr. G. F. Hossain,
Mr. Varsha Roy.

...for the Petitioner.

Mr. Amajit De, ld. Spl. P.P.,
Mr. Sagar Saha.

...for the CBI.

Petitioner is in custody for two years. He submits there is inordinate delay in trial. He prays for bail.

Learned advocate for the CBI opposes the bail prayer. He contends an inmate of children's home had been murdered. Investigation revealed systemic killing of a number of inmates. Trial is in progress.

We have considered the materials on record. Offence is a heinous one. Skeletons of a number of inmates of a children's home were recovered in course of investigation. Petitioner was arrested and is facing trial. Unfortunately, trial has dragged on for more than ten years. Delay in the trial cannot be attributed to the petitioner.

Though we are conscious of the gravity of offence, in light of the inordinate delay in trial, we are constrained to examine the bail prayer of the petitioner on the ground of infraction of his fundamental right to speedy trial. We also note vulnerable witnesses have been examined and examination of

official witnesses is awaited. We take judicial notice of the fact that examination of official witnesses who are posted in various parts of the country are delayed due to systemic reasons. Co-accused Biswanath Murmu has been enlarged on bail.

In view of the aforesaid facts, we are inclined to enlarge the petitioner on bail.

Accordingly, the petitioner viz., Somnath Roy @ Sunny 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 Additional Sessions Judge-cum-Judge, Special Court, Hooghly 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 and on further condition that while on bail petitioner shall remain within the Gurap Police Station except for the purpose of investigation and/or attending court proceeding and shall meet the Officer-in-charge of the police station concerned once in a week until further orders within whose jurisdiction he shall presently reside.

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.

The application for bail is, thus disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)

