

17.08.2023.
26.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 2764 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bally P.S. Case No.18 of 2007 dated 23.01.2007 under Sections 302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act.

In the matter of : Amit Kr. @ Amit Thakur @ Amitabha
@ Gullu.

.... Petitioner.

Mr. Avishek Sinha,
Mr. Anasuya Sinha,
Ms. P. Priyadarshee.

...for the Petitioner.

Mr. Nguive Ahmed, Id. A.P.P.,
Ms. Amita Gaur.

...for the State.

1. Petitioner is in custody for about 12 years. It is contended there is little possibility of trial concluding in the near future. He prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He submits petitioner has criminal antecedents. He is involved in a number of cases in the States of Bihar and Odisha. In fact, he was convicted in a case in Bihar. As a result, he was not produced before the trial court till 2022. Bail prayer of the petitioner had been rejected by the Hon'ble Apex Court in 2018.

3. We have considered the materials on record. Allegations against the petitioner are very grave. But trial has hardly progressed.

4. Learned Advocate for the State strenuously argues petitioner was facing trial in other States. Consequentially, he was not produced before the jurisdictional court.

5. This is strongly disputed by the learned Advocate for the petitioner who claims the trials against her client had concluded by 2011.

6. Be that as it may, we note bail prayer of the petitioner was rejected on merits earlier by this Court as well as the Apex Court in November, 2018. By the said order, the Hon'ble Apex Court had directed trial to be concluded preferably within one year.

7. In this backdrop, we called upon the State to explain why the petitioner had not been produced before the trial court till 2022.

8. In response, Mr. Ahmed has submitted a report. Report merely states due to Covid and other systemic reasons, there was delay in trial. Report is silent inspite of direction of the Hon'ble Apex Court why the petitioner had not been produced before the trial court till 2022. Failure on the part of the prosecuting agency to ensure prompt production and trial of the petitioner notwithstanding the aforesaid directive of the Hon'ble Apex Court clearly infracts his right to speedy trial.

9. We are conscious petitioner has criminal antecedents and has been sentenced to life imprisonment in another case. However, we also take note of the fact the Hon'ble Apex Court has suspended his sentence and enlarged him on bail. 33

witnesses have been cited in the charge sheet. There is little possibility of trial concluding in the near future.

10. In view of the aforesaid circumstances, we are constrained to hold petitioner's right to speedy trial which was amplified by the Hon'ble Apex Court in its order dated 18.11.2018 has been ignored and he has made out a case for bail on the ground of inordinate delay in trial.

11. Accordingly, the petitioner viz., Amit Kr. @ Amit Thakur @ Amitabha @ Gullu shall be released on bail upon furnishing a bond of Rs.50,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah 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, petitioner while on bail shall report to the Officer-in-charge, Bally Police Station once in a month until further orders.

12. In the event the petitioner fails to appear before the Trial Court without any justifiable cause and if he seeks delay or dilate the trial unnecessarily, trial court is at liberty to cancel his bail without reference to this Court.

13. Trial court is requested to conduct the trial with utmost expedition without granting unnecessary adjournment to either of the parties.

14. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)