

24.07.2023.
21.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2801 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Maidan P. S. Case No.143 of 2010 dated 04.12.2010 under Sections 121A/121/122/120B of the Indian Penal Code and under Sections 16(1)(b)/18/20 of Unlawful Activities (Prevention) Act and under Sections 25(1A) of the Arms Act; under Sections 121/121A/122/120B of the Indian Penal Code and under Sections 16(1)(b)/18/20 of the U.A. (P) Act.

In the matter of : Barun Sur @ Bidyut @ Shahin.
.... Petitioner.

Mr. Kaushik Gupta,
Mr. Arijit bhusan Bagchi.
...for the Petitioner.

Mr. Neguive Ahmed, Id. A.P.P.,
Ms. Trina Mitra.
...for the State.

Petitioner is in custody for more than 12 years. He submits there is inordinate delay in trial. Co-accused have been enlarged on bail on such score. He prays for bail.

Learned Advocate for the State has submitted a report. Learned Advocate for the State submits delay in the matter was due to reasons which cannot be attributed to the prosecution.

We have considered the materials on record. Petitioner is languishing in jail for more than 12 years. Petitioner had not sought for adjournment on any date. Though allegations are grave, his continued detention and the slow progress in trial has infringed the fundamental right to speedy trial enshrined under Article 21 of the Constitution of India. Bail prayer on the

ground of delay in trial is not fettered under Section 43D(5) of the UAPA Act as held in *Union of India Vs. K. A. Najeeb*.¹

Under similar circumstances co-accused have been enlarged on bail. Hence, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner viz., Barun Sur @ Bidyut @ Shahin 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 Judge, City Sessions Court, Kolkata, Bichar Bhawan 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 the petitioner while on bail shall not leave the jurisdiction of Jangipara Police Station save and except for attending the dates specified for hearing before the learned trial court.

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.

Before parting, we note that the proceeding before this Court has been stayed by a learned Single Judge of this Court.

In the light of the direction in *Asian Resurfacing of Road Agency Private Limited & Anr. Vs. Central Bureau of Investigation*², we give liberty to the parties particularly the

¹ (2021)3 SCC 713

² (2018) 16 SCC 299

State to take appropriate steps for vacating the stay and for expeditious hearing of the revision application.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)