

26.07.2023
Sl. No.29
akd
[ALLOWED]

C. R. M. (DB) 2963 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.07.2023 in connection with Bhawanipore Police Station Case No.205 of 2010 dated 11.05.2010 under Sections 302/394//34 of the Indian Penal Code.

And

In Re: ***Rajiv Kumar Das @ Rajiv Kumar Dey***
... .. Petitioner

Mr. Sourav Mondal
... .. for the petitioner

Mr. Parthapratim Das
Mr. Monajit Chakraborti
... .. for the de-facto complainant

Ms. Anasuya Sinha
Mr. Pinak Kumar Mitra
... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than thirteen years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.

Report with regard to status of trial is placed on record.

Learned Advocate for the de-facto complainant also opposes the prayer for bail.

We have considered the materials on record. Petitioner has suffered incarceration for more than thirteen years. Delay in the matter was due to indolence of the prosecution to adduce evidence. Even the official witness was examined in a staggered manner. Under such circumstances, we are constrained to observe further detention of the petitioner would infract his fundamental right to speedy trial and he is entitled to bail on this score however, subject to strict conditions.

Therefore, the accused/petitioner, namely ***Rajiv Kumar Das @ Rajiv Kumar Dey***, be released on bail upon furnishing a bond of

Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, South 24-Parganas at Alipore subject to condition that the said petitioner 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 the district of Howrah except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Liluah Police Station once in a week until further orders.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)