

05.10.2023
D/L 07
Ct. No.29
Allowed
(SKB)

**CRM (DB) 3161 of 2023
(Assigned)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure, 1973 in Sessions Trial No.06(10)2012, Sessions Case No.68(8)2003 in connection with Dhantala P.S. Case No.32 of 2003 dated 06.03.2023 under Sections 396/376(2)(g)/354/120B of the Indian Penal Code read with Section 25(1)(a) of the Arms Act.

In the matter of : Babu Bala

... Petitioner

Ms. Sananda Bhattacharyya

... for the petitioner

Mr. Madhu Sudan Sur, Id. APP

Mr. Manoranjan Mahata

... for the State

1. Mrs. Nabanita Ray, Registrar (Admn.-I)(L & OM), Mr. Pulok Sarkar, J.R. (Judicial), Mr. Dibyendu Chottopadhyay, D.R. (Criminal), Durbadal Bakshi, A.R.(VII), Mr. Birendra Banerjee, S.O. and Mr. Santanu Banerjee, Supdt. are present in court today.
2. After hearing the parties, we had called the aforesaid officers of the concerned department who are in-charge of L.C.R. of Sessions Courts.
3. The present bail application arises out of a split up trial. In the original trial, five accused persons are stated to have been convicted and 17 accused persons are stated to have been acquitted. Against the said judgement, CRA 520 of

2012 with CRA 114 of 2020 with CRA 369 of 2009 with CRA 263 of 2016 have been filed. Now the trial in the present split up case is withheld on the ground of want of LCR since about 11 years and the petitioner is stated to be in custody since 15 years (as submitted by learned counsel for the petitioner).

4. On enquiry it is given to us that there is no provision of the trial court addressing a letter to the high court for return of LCR when split up trial is taken up after conviction or acquittal in main case.
5. In view of such fact, it is difficult on the part of the Registry to note in which case LCR has been received in the main case and split up trial is pending adjudication.
6. To wriggle out of such situation, it is directed that the Registrar (Admn.-I)(L & OM) with the approval of the Hon'ble Chief Justice shall issue a G.O. addressing to all Sessions Judges and other Judges holding Special Courts to the effect that if they find that in any case the LCR in the main case has been sent to the High Court and the trial in split up case is not progressing for want of LCR, the presiding officer of such court, where split up trial is pending, shall address a letter to the Registrar (Admn.-I)(L & OM), High Court, Calcutta through the jurisdictional Sessions Judge for placing the matter before the Bench with determination to accord permission for return of the LCR to facilitate proceeding of trial in the split up case. Such letter

should be written by the Presiding Officer concerned routed through the jurisdictional Sessions Judge with promptitude and the action by the Registrar (Admn.-I)(L & OM) is to take action in the matter, after getting the appeal listed before the appropriate Bench with permission of Hon'ble presiding Judge of the Bench at His Lordship's convenience. Once the matter is listed before the appropriate Bench, the responsibility of the Registrar (Admn.-I)(L & OM) is over.

7. In the event, delay is caused in returning the LCR for facilitating trial in the split up case, responsibility can be fixed on either the Presiding Officer of the court or the Registrar (Admn.-I)(L & OM) or in the event of his/her prompt action on the erring official of the registry/department.
8. We are constrained to pass such order because for non-returning of LCR to the trial court for facilitating trial in the split up case when criminal appeal in respect of main case is pending in the high court unattended, innocent accused are languishing in jail, which affects their valuable right under Article 21 of the Constitution of India.
9. We are given to understand that the aforesaid appeal is now within the determination of the Bench presided over by Hon'ble Justice Tapabrata Chakraborty.
10. The Registry is directed to place the aforesaid appeals before the appropriate Bench for release of the LCR in the aforesaid appeals to be returned to the trial court. Along

with the appeals the 5 (five) orders of bail rejecting prayer of bail by the present petitioner and directing expeditious trial targeting the trial itself be also placed before the Bench along with a copy of this order. The matter be placed before the appropriate Bench on or before 12th October, 2023 after seeking permission of Hon'ble presiding Judge of the appropriate Bench. If any other date is fixed by Hon'ble Hon'ble presiding Judge of the Bench, the appeals along with the aforesaid materials be placed before the Bench on the said date.

11. It is needless to mention here that if Hon'ble appropriate Bench accords permission to release the LCR to facilitate trial in the split up case, the LCR be returned to the trial court by a special messenger.
12. The trial court is directed to conclude the trial within six months from the date of receipt of the LCR.
13. In view of the aforesaid order, we do not want to proceed further to decide the bail petition on merit. The petitioner has already suffered for about 15 years in jail without trial for 11 years or more and his valuable right under Article 21 of the Constitution of India has grossly been violated.
14. In view of such fact without addressing the bail petition on merit, we deem it just and proper to direct the learned Additional Sessions Judge, Ranaghat, Nadia in Sessions Trial No.6(10)/2012 to release the present petitioner on bail on such terms and conditions as deemed just and proper in

the fact and circumstances of the case including the conditions:

- i) The petitioner shall appear before the trial court on each date of substantive hearing subject to provision of Section 317 Cr.P.C.
- ii) The petitioner shall not leave the jurisdiction of the learned Trial Court for a period of 15 days at a time without obtaining prior permission from the trial court.
- iii) The accused/petitioner shall not take unnecessary adjournment in the case and in the event of prolongation of the trial at the behest of the accused, the bail granted today may be cancelled by the court in seisin over the matter to conclude the trial by the time period specified in paragraph 12.

15. This order be placed before the Bench with determination for Their Lordships' perusal and it should also be placed before Hon'ble the Chief Justice for needful action at His Lordship's end. With humility we would like to say that Hon'ble the Chief Justice in his Lordship's wisdom may make our observation supra more broad based and systematic for the interest of the institution.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)