

18.08.2023
Sl. No.16
akd
[ALLOWED]

C. R. M. (DB) 3249 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.08.2023 in connection with New Alipore Police Station Case No.277 of 2016 dated 19.10.2016 under Sections 395/397 of the Indian Penal Code and Sections 25(1B)(a)/27 of the Arms Act.

And

In Re: **Shib Sankar Kamat**

... .. Petitioner

Mr. Pawan Kumar Gupta
Mr. Shiladitya Barma

... .. for the petitioner

Mr. Joydeep Roy
Mrs. Sujata Das

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than six years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner was the gang leader and had committed dacoity. Trial is in progress.
3. We have considered the materials on record. Though allegations are grave, petitioner has suffered incarceration for more than six years. Trial had proceeded at a slow pace and three more witnesses are yet to be examined. Offences, if proved, would not attract mandatory life imprisonment. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial under Article 21 of the Constitution of India and he is entitled to bail on such score.
4. Therefore, the accused/petitioner, namely **Shib Sankar Kamat**, 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 Additional Sessions Judge, 9th Court, Alipore, South 24-Parganas 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.

5. 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.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)