

08.09.2023
23
sdas
rejected

C.R.M. (DB) No. 3401 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Haroa Police Station Case No. 500 of 2019 dated 22.11.2019 under Sections 447/448/325/307/302/506/34 of the Indian Penal Code.

And

In Re : Latif Molla & Ors. petitioners

Mr. Kallol Kumar Basu

Md. Jannat Ul Firdous

... for the petitioners

Mr. Prasun Kumar Datta, learned APP

Md. Kutubuddin

... for the State

Mr. Nani Gopal Sarkar

Mr. Devanjan Das

... for de facto complainant

1. Learned Counsel for the petitioners submits they are in custody for over 700 days in all. Initially they were on bail. Bail was cancelled by this Court which came to be affirmed by the Hon'ble Apex Court. Thereafter petitioners were arrested. It is contended that there is slow progress in trial and no witness has been examined as yet.

2. Learned Counsel for the State opposes the bail prayer and submits petitioners were involved in the murder of the victim. Delay in the matter was due to non-appearance of the accused and cannot be attributed to the prosecution.

3. Learned Counsel for the de facto complainant also opposes the prayer for bail and contends bail prayer of the petitioners was rejected in November, 2022.

4. We have considered the materials on record. There are materials implicating the petitioners in the murder. In view of the said materials on record bail granted to the petitioners was cancelled. Order was affirmed by the Hon'ble Apex Court. Thereafter the accused persons did not appear before the trial court regularly. This protracted the proceeding. Under such circumstances, bail prayer was rejected by this Court on November, 2022. Since then charge came to be framed on 09.12.2022. On prayer of the accused cross-examination of witnesses was allowed. It is common knowledge deferment of cross-examination results in delay and dilation of proceeding. Be that as it may, date has been fixed for examination of the prosecution witnesses on 3rd October, 2023. Under such circumstances, we are unable to persuade ourselves that delay in the matter is attributable to the prosecution alone. Allegations are very grave and offences, if proved, would attract mandatory life imprisonment. Accordingly, we are not inclined to grant bail to the petitioners.

5. The application for bail is, thus, rejected.

6. Having considered the period of detention suffered by the petitioners and gravity of offence we consider it prudent to request the trial court to expedite the trial.

7. Trial court is directed to conduct the trial with utmost expedition and fixed schedules to record evidence of the witnesses at regular intervals and conclude the trial at an early

date preferably within two years from the next date fixed for recording evidence.

8. No adjournment shall be given to either of the parties including the defence for cross-examination of witnesses.

9. Parties shall communicate this order to the trial court for necessary compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)