

06.10.2023
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allowed

CRM(DB) No. 3782 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hirapur Police Station Case No. 387 of 2017 dated 23.12.2017 under Sections 395/397/412 of the Indian Penal Code.

And

In Re : Rajib Kumar Singh @ Pullu petitioner

Mr. Sekhar Kumar Basu, Sr. Adv.

Mr. Avik Ghatak

Mr. S. K. Dasgupta

....for the petitioner

Mr. Rudradipta Nandy, learned APP

Mr. Subroto Roy

.... for the State

1. Learned senior Counsel for the petitioner submits his client is in custody for more than five years. It is also submitted there is hardly any progress in the matter since rejection of bail by this Court and the Hon'ble Apex Court. He renews his bail prayer.

2. Learned Counsel for the State places the report on record with regard to status of the proceeding. It is also submitted the accused are involved in cases registered in different States. In spite of prayer to produce co-accused virtually during trial, no steps had been taken. Presiding officer was also absent. As a result, trial could not proceed.

3. This is disputed by the learned senior Counsel for the petitioner who submits only one witness has been examined in part.

4. We have considered the materials on record. It is true that the petitioner and co-accused are facing trial in different States but the petitioner has suffered incarceration for more than five years.

5. Hon'ble Apex Court vide order dated 02.03.2023 gave liberty to the petitioner to apply for bail if trial did not conclude within six months. Since then only one witness has been examined in part. It is strenuously argued delay was due to systematic reasons i.e. absence of Presiding Officer. Be that as it may, protracted detention of the petitioner awaiting trial cannot be denied. It is not a case where the petitioner has engineered delay. Offences, even if proved, would not attract mandatory life imprisonment. Under such circumstances, we direct the petitioner may be released on bail subject to strict conditions.

6. Accordingly, we direct that the petitioner 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 Judicial Magistrate, Paschim Bardhaman, on further condition that while on bail petitioner shall remain within the district of Paschim Bardhaman except for the purposes of investigation and /or attending court proceeding and shall provide address where he shall reside to the investigating agency and shall meet the officer-in-charge of the police station within whose jurisdiction he shall presently reside once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and

shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

8. The application for bail is, accordingly, allowed.

9. Trial court is directed to expedite the trial and conclude the same with utmost expedition without granting unnecessary adjournment to either of the parties.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)