

03.10.2023.
39.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 3801 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jamuria P.S. Case No.135 of 2018 dated 01.06.2018 under Sections 363/365 of the Indian Penal Code and added Sections 302/120B/201 of the Indian Penal Code.

In the matter of : **Chhotu Yadav @ Chotu Yadav.**

.... Petitioner.

Mr. Ayan Basu,
Sk. Salim,
Mr. S. Routh.

...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Dipankar Paramanick.

...for the State.

1. Petitioner is in custody for more than five years. He submits inspite of direction of this Court trial has not concluded. He renews his bail prayer.
2. Learned Advocate for the State opposes the bail prayer. He submits delay was due to systemic reasons and cannot be attributed to the prosecution.
3. We have considered the materials on record. Bail prayer of the petitioner was rejected earlier. Trial Court was requested to conclude the trial within one year from the next date fixed for recording evidence vide order dated 10.08.2023 in CRM (DB) 2598 of 2022. Inspite of communication of this order, only one witness has been examined till date. Prosecution proposes to examine 22 witnesses. It is contended there was vacancy in the Court for some period. However, during that period witnesses had not been produced and no prayer was made to

record their evidence before the Judge-in-charge. Petitioner has languished in jail for more than five years and delay in trial has infringed his right to speedy trial under Article 21 of the Constitution of India.

4. Under such circumstances, we are inclined to grant bail to the petitioner subject to conditions.

6. Accordingly, the petitioner viz **Chhotu Yadav @ Chotu Yadav** 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, Asansol subject to condition that he 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 remain within Jamuria Police Station and report to the Officer-in-charge of Jamuria Police Station once in a week until further orders.

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

8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

