

11.10.2023

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Rejected

C.R.M. (DB) No. 3951 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Asansol South Police Station Case No. 261 of 2019 dated 12.08.2019 under Sections 364A/120B of the Indian Penal Code and Sections 302/201/34 of the Indian Penal Code.

And

In Re : Supriyo Bakshipetitioner

Mr. Tanweer Jamil Mandal

Ms. Somashree Dey

Ms. Tuhina Parvin

Mr. Nobiyul Islam

..... for the petitioner

Mr. Madhusudan Sur, learned APP

Mr. Dipankar Paramanick

..... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than four years. It is contended that there is inordinate delay in trial and he is entitled to bail on that score. It is further submitted that the evidence on record is not sufficient to procure a conviction. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits bail prayer of co-accused Prabin Kumar Ray was turned down by this Court in April, 2023 and direction was given to conclude trial within two years.

3. We have considered the materials on record. There are materials connecting the petitioner with the kidnapping of a victim for ransom. Offences, if proved, would attract mandatory life imprisonment. In the backdrop of gravity of the offence and other attending circumstances, delay in trial was considered by this

Court in CRM(DB) 1441 of 2023. In the said order it is noted delay was engineered by the co-accused who refused legal representation through Counsel appointed by the DLSA concerned. This discloses dilatory tactics adopted on the part of the defence which contributed to the delay. Notwithstanding such conduct and noting the nature of evidence to be adduced this Court directed the trial to be concluded within two years from the next date fixed for recording evidence and observed no unnecessary adjournment to be given to the parties.

4. Presently trial is in progress and six witnesses in all have been examined. Four of them have been examined after rejection of bail of the co-accused in April, 2023. It cannot be said that the prosecution is insensitive to the observations made by us in our earlier order.

5. Learned Counsel has relied on bail order in other cases where bail had been granted on the ground of delay in trial¹. It is trite law bail orders (even if passed in the same case) cannot be mechanically treated as precedents². Whether delay in trial has caused infraction of the fundamental right to speedy trial of the accused is to be assessed on the nature of evidence to be adduced, number of witnesses to be examined and conduct of the parties. As noted earlier conduct of the accused in contributing to the delay is patent.

¹ Akash Satish Chandalia vs. The State of Maharashtra, (Criminal Bail Application No. 1779 of 2023 dated 26th September, 2023)

² Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli) & Anr, (2021) 6 SCC 230

6. In the light of the aforesaid discussion we are of the opinion no case to review our earlier direction to conclude the trial within the prescribed timeframe has been made out and prayer for bail is rejected both on merits and on the score of delay.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)