

13.10.2023

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Allowed

C.R.M. (NDPS) No. 1685 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 468 of 2020 dated 16.06.2020 and subsequently charge-sheet submitted under Section 21(c) of the NDPS Act read with Sections 25(i)(a)/27 of the Arms Act.

And

In Re : Kamrujjaman Chowdhury @ Jaman Biswas petitioner

Ms. Minoti Gomes
Mr. Mounick Ghosh
Mr. D. Sanyal
Ms. Tanuja Banerjee

.....for the petitioner

Mr. Ranabir Roychowdhury
Mr. Mainak Gupta

....for the State

1. Learned Counsel for the petitioner submits inspite of direction given by this Court in March, 2023 to conclude trial within six months from the date fixed for recording evidence, no further witness has been examined. He is in custody for almost three years. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits witness had been transferred. As a result he could not be examined.

3. We have considered the materials on record. Directions have been given by this Court to utilise video linkage for examination of an official witness who has been transferred

from his place of posting¹. In spite of direction of this Court to conclude trial within a timeframe, no attention was paid to these directions and for conducting examination of official witness via video linkage. This shows callous indifference of the prosecution to conclude trial expeditiously and infracts the fundamental right to speedy trial of the accused. Petitioner has made out a case for grant of bail on the ground of delay. Accordingly, we are inclined to grant bail to the petitioner.

4. 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 Judge, Special Court, Additional District Judge, 3rd court, Malda, subject to conditions that 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ Bibekananda Pramanik vs. State of West Bengal & Anr., 2017 SCC OnLine Cal 14908 [Para 5(3)]