

D/L. 25
January 31, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 3 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with NJP GRPS Police Station Case No. 25 of 2019 dated 24.08.2019 under Sections 302/307/201 of the Indian Penal Code.

And

In the matter of: Md. Sadam Hussain @ Saddam Hussain

.... Petitioner

Mr. Sandip Dutta

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Kallol Nag

... for the State

The petitioner contends that the petitioner is already in custody for about 1225 days. It is further submitted that the court taking up the case of the petitioner is lying vacant, which will prejudice early disposal of the case. As such, it is submitted that the petitioner is entitled to bail.

Learned counsel for the State opposes the prayer for bail and points out to the statement under Section 161 of the Code of Criminal Procedure given by the accused person as well as the statements of other witnesses to show the brutality and grave nature of the crime.

We consider the submissions of parties.

Keeping in view the brutality and gravity of the crime and the fact that the petitioner is only 24 years of age, we are of the opinion that it would not be proper to grant bail to the petitioner at this stage,

since such release might prejudice the trial and create an opportunity for the petitioner to influence witnesses.

However, the petitioner is justified in complaining that the court concerned is lying vacant, which is delaying and increasing the period of incarceration of the petitioner unnecessarily.

Accordingly, CRM (DB) 3 of 2023 is disposed of by refusing the bail of the petitioner, but directing the case of the petitioner, that is Session Case No. 192 of 2019 pending at present in the 4th Court of Additional Sessions Judge at Jalpaiguri, to be transferred to the 3rd Court of Additional Sessions Judge at Jalpaiguri for being taken up for hearing expeditiously. It is expected that the transferee court shall decide the said case as expeditiously as possible after receiving the records.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)