

02.03.2023

Sl. No.21
akd
[ALLOWED]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (DB) 83 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.01.2023 in connection with Siliguri Police Station Case No.79 of 2013 dated 25.01.2013 under Section 364A of the Indian Penal Code and subsequently charge sheet submitted under Sections 364A/302/201/120B/394/411/34 of the Indian Penal Code.

And

In Re: ***Surendra Kumar Mishra***

... .. Petitioner

Mr. Hillol Saha Podder
Ms. Mousumi Das

... .. for the petitioner

Mr. Aditi Shankar Chakraborty .. Id. Addl. Public Prosecutor
Mr. Aniruddha Biswas

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than ten years. It is further submitted there is inordinate delay in trial.

Report is placed on record. From the report it appears that the matter has been fixed for argument.

We have considered the materials on record. Allegations involve kidnapping for ransom and murder. No doubt the offences are very grave. Petitioner is in custody for more than ten years and the matter is pending for argument since 2019. Even if one discounts 2020 and 2021 due to pandemic conditions, it is unclear why the trial could not be concluded in 2022. Under such circumstances, we are constrained to hold the fundamental right to speedy justice of the petitioner has stood infracted and he is entitled to bail on this score however, subject to strict conditions.

Therefore, the accused/petitioner, namely **Surendra Kumar Mishra**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Siliguri, Darjeeling subject to condition that the said petitioner 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 not leave the jurisdiction of Matigara Police Station except for the purpose of attending court proceedings and shall report to the Officer-in-charge, Matigara Police Station once in a week until further orders.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)