

09.06.2023
Court No.01
Item No.3.
Allowed

sg

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (DB) 293 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Banarhat Police Station Case No. 221 of 2008 dated 27.06.2008 under sections 304 of the Indian Penal Code.

And

In Re: **Biswa Kharia @ Bishwa @ Birsha @ Birsa**

Petitioner

Mr. Kallal Ghosh, Chief LADCS
Mr. Mishan Sah
Mr. Utpal Dutta
Mr. Rakesh Gupta

For the Petitioner

Mr. Kallol Acharjee
Mr. Biswarup Roy

For the State

We have heard the learned counsel for the parties.

The learned counsel for the petitioner submits that the petitioner is in custody for over 15 years although if he has ultimately convicted of the offence, the period of sentence prescribed is 10 years. In fact, he had suffered the period more than he could have been asked to serve in the event of conviction. It is submitted that after the close petition was filed and the matter was fixed for argument on 19th November, 2019 and surprising an application was filed in February 2021 for examination of I.O. and there has been no progress in that matter.

The learned counsel for the State opposes the prayer for bail and submits that trial is at the advanced stage.

Considering the submission made on behalf of the petitioner and the fact that the evidence was closed on 19th November, 2019 and again reopened almost after four years and that even if he has convicted, he could have sentenced for ten years, we are inclined to grant bail to the petitioner for long incarceration.

Accordingly, we direct that the petitioner shall be released on Personal Recognizance (P.R.) Bond, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri with a condition that the petitioner shall attend each and every date of trial and the petitioner shall not leave the jurisdiction of the jurisdictional court without prior permission of the court and he shall not intimidate the witness or tamper with evidence in any manner whatsoever.

In the event of non-compliance of any of the conditions, the bail shall stand automatically cancelled without any further reference to this Court.

The application for bail is allowed. CRM (DB) 293 of 2023 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)