

09.6.2023
Court No.01
Item No. 08
ar
Rejected

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

CRM (DB) 298 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Maynaguri Police Station Case No. 07 of 2015 dated 03.4.2015 under Sections 302/201/34 of the Indian Penal Code.

And

In Re: **Jyotish Roy**

.... Petitioner

Mr. Kallol Ghosh
Mr. Kishan Sah
Mr. Utpal Dutta
Mr. Rakesh Gupta

... For the Petitioner

Ms. Aditi Shankar Chakraborty, Ld. APP
Mr. Subhasish Misra

... For the State

Learned counsel for the petitioner in all fairness submits that this is an application for renewal of the prayer for bail. Earlier bail application was rejected on 8th September, 2023. However, the grievance of the petitioner is that although the coordinate bench directed to expedite the trial by examining the witnesses as early as possible preferably within a period of six months from the date of receipt of the copy of this order. Thereafter only 2 witnesses have been examined and there is no substantial progress in the trial.

Learned counsel appearing for the State opposes the prayer for bail and submits that in view of involvement of the petitioner in the commission of alleged offence as transpired from the statement of the landlord and his family members and the statements of independent witnesses recorded under Section 161 of the Code of Criminal Procedure and also having regard to the fact that the trial has progressed substantially, if the petitioner is released on bail may prejudice the trial.

Considering the fact that 12 witnesses out of 29 witnesses have been examined so far and the nature of involvement of the petitioner in the alleged offence, we are not inclined to grant bail to the petitioner at this stage.

The application for bail of the petitioner is rejected. CRM (DB) 298 of 2023 is accordingly, disposed of.

However, we make it clear that in the event the remaining witnesses are not examined within a period of six months from the next date fixed, the petitioner is no way responsible for such delay. In that case, the petitioner is entitled to file an application for bail and the trial court shall consider such factor in accordance with the direction passed in this order.

The prosecution shall not ask for any adjournment and it would be the responsibility of the prosecution to produce the remaining witnesses before the trial court to conclude the trial within the aforesaid period.

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.)