

**14.06.2023**

Ct.No. 1

Item No. 5

Sb / Saswata

**Allowed**

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

**C.R.M. (DB) 315 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Jaigaon PS case no. 04 of 2016 dated 09.01.2016 under Sections 365/376(2)(f)/302 of the Indian Penal Code, 1860

And

In the matter of : **Birman Bhujel**

...petitioner

Mr. Kallol Ghosh  
Mr. Rajkumar Gupta  
Mr. Bhanu Singha Sarkar  
Mr. Kishan Sah  
Mr. Utpal Dutta  
Mr. Rakesh Gupta

...For the petitioner

Mr. Abhijit Sarkar  
Mr. Arjun Chowdhury

....For the State

1. Learned Counsel for the petitioner submits that the petitioner is in custody since 10<sup>th</sup> January, 2016 without any substantial progress in the trial. It is submitted that only 3 out of 18 witnesses have been examined so far and the evidence is purely circumstantial. It is further submitted that there is no eye witness and the petitioner is innocent.
2. The Learned Counsel for the State, in opposing the prayer for bail of the petitioner submits that serious charges have

been levelled against the petitioner and in view of the fact that the trial is in progress, the petitioner cannot be released on bail.

3. Considering the materials available in the case diary, the nature of involvement of the petitioner and the fact that the allegation is based on circumstantial evidence and also having regard to the fact that only 3 out of 18 witnesses have been examined till date and there has been slow progress in the trial and that the petitioner has no criminal antecedents and the delay is not attributable to the petitioner, we **allow** the prayer for bail of the petitioner on the following conditions:

- i) The petitioner shall be released on bail upon furnishing a bond of Rs.2,500/- (Rupees Two Thousand Five Hundred only), with one local surety subject to satisfaction of the Learned Chief Judicial Magistrate, Alipurduar.
- ii) The petitioner shall not enter the jurisdiction of Jaigaon Police Station except for the purpose of attending Court.
- iii) The petitioner shall attend each and every date of trial unless exempted in accordance with law;

- iv) The petitioner shall inform the Learned Trial Judge as well as the Officer-in-Charge of the Police Station about his place of residence during bail and trial. Any change in the same shall also be communicated within 48 hours thereafter.
- v) The petitioner shall meet with the Investigating Officer once in a week during bail.
- vi) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever;
- vii) In the event of non-compliance of any of the conditions enshrined above, the bail shall stand automatically cancelled without further reference to this Court.
- viii) Petitioner shall furnish details of his Aadhaar Card, Telephone Number, E-mail, PAN Card, bank Account Number, if any. The petitioner shall surrender his passport to the learned Trial Court. In the event he does not hold any passport, he shall file an affidavit to that effect before the learned Trial Court;

4. CRM (DB) 315 of 2023 is, accordingly, disposed of.
5. The Learned Trial Court is directed to expedite the trial by concluding the evidence of the remaining witnesses within a reasonable time.
6. All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

**(Raja Basu Chowdhury, J.)**

**(Soumen Sen, J.)**