

AD-7
Ct No.01
Jalpaiguri
18.09.2023
SP

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

CRM (DB) 509 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.08.2023 in connection with F.I.R. No. RC0562021S0019 dated 27.08.2021 of Central Bureau of Investigation, CBI, SCB, Kolkata under Section 120-B/143/147/148/149/302/34 of the Indian Penal Code arising out of Sitalkuchi Police Station Case No. 104 of 2021 dated 05.05.2021.

And

In the matter of: NABAKUMAR BARMAN

.... petitioner

Mr. Swarup Das

... for the petitioner

Mr. Sudipto Kumar Mazumdar
Mr. Ajoy Kumar Singhanian
Mr. Saptak Sarkar

... for the CBI

1. Learned counsel for the petitioner argues that the petitioner is already in custody for more than 400 days. It is contended that there are more than 60 witnesses and as such the trial would take much time to conclude.
2. Further, learned counsel places reliance on several coordinate Bench orders whereby other accused on similar footing as the petitioner regarding the same offence were released on bail.
3. By placing the order dated January 10, 2023 in respect of one Saher Ali Mia, learned counsel points out that in the

said case as well, the involvement, like the present petitioner, was only to the extent of making a phone call.

4. As such, the Court had granted bail.
5. Learned Deputy Solicitor General submits that the petitioner's bail application ought to be rejected. By pointing out to the order dated June 12, 2023, it is argued that the petitioner's application with similar prayer was rejected by a coordinate Bench. Nothing has happened subsequently to furnish change of circumstances necessitating the grant of bail.
6. It is further contended that the petitioner's antecedents are extremely averse to grant of bail, since the petitioner is already suffering charges under Sections 307, 302 and Sections 3 and 4 of the Explosive Substances Act, which are punishable by death penalty as well.
7. It is contended by the CBI that the prosecution is doing its level best to conclude the trial as expeditiously as possible and, if necessary, there may be directions by the Court to that effect.
8. A perusal of the previous orders whereby bail was granted to two accused persons on similar footing shows that those orders were passed in the vicinity of January 20, 2023. However, the bail application of the petitioner himself was rejected by a coordinate Bench much recently on June 12, 2023. Needless to say, the said orders of the other co-

accused persons' bail were available before the coordinate Bench when the petitioner's application was rejected.

9. Apart from the framing of charges in the meantime, we do not find anything to mitigate the case of the petitioner in so far as change of circumstances is concerned. Most importantly, the CBI expresses an apprehension that the petitioner, if enlarged on bail, may issue further threats to the de facto complainant, who is the wife of the victim, as is being done by the other accused persons who are released on bail.
10. That apart, we find that the antecedents of the petitioner are not congenial to grant of bail, since other charges of serious and grievous offences are already pending even independent of the present case against the petitioner.
11. Thus, we are not confident enough to grant bail to the petitioner at this stage. Accordingly, CRM (DB) 509 of 2023 is dismissed. However, the Trial Court is expected to expedite the conclusion of the trial, if necessary to take up trial on a day-to-day basis and make all endeavour to conclude the same as expeditiously as possible, preferably within eight months from date.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)