

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

6.09.2023
Item no.9
Court No.01
P.P./S.D.

CRM (DB) 541 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re: Sri Pijush Biswas

.... petitioner

Mr. Kalipada Das

....for the petitioner

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

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Sessions Case No. 64 of 2022 arising out of Alipurduar Junction GRPS Case No. 21 of 2021 dated 23.12.2021 under Sections 302/201/34 of the Indian Penal Code, 1860.

Mr. Das, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody for about 1 year 8 months. All the witnesses have been examined and the case is at the stage of examination under Section 313 of the Cr.P.C.

He, however, submits that as repeated adjournments were taken, the examination under Section 313 of the Cr.P.C. could not be completed. The delay is attributable to the State and in the said conspectus, further detention of the petitioner may not be necessary.

Mr. Chakraborty, learned Additional Public Prosecutor, appearing on behalf of the State opposes the petitioner's prayer and submits that all the witnesses have been examined and the next date has been fixed for examination under Section 313 of the Cr.P.C. on 4.10.2023. Considering the stage of the trial and the gravity of the offence, the petitioner's prayer needs to be refused.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the gravity of the offence and the stage of the proceedings, we are not inclined to exercise discretion in his favour at this stage.

However, we direct the learned Court below to expeditiously conduct the trial and conclude the same within a period of five months from date without granting any unnecessary adjournments to either of the parties.

It is made clear that if the proceedings are not completed within the above period due to the laches on the part of the prosecution, the petitioner would be at liberty to renew his prayer for bail.

With the above observations and directions, the application being CRM (DB) 541 of 2023 is disposed of.

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

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)