

JPD-38
Ct No.01
22.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 769 of 2023
[subsequently renumbered as CRM (DB) 620 of 2023]

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Bagdogra Police Station Case No. 578 of 2022 dated 05.12.2022 corresponding to GR Case No. 5290 under Sections 420/468/471 IPC read with Section 14A(b) of the Foreigners Act.

And

In the matter of: Indranil Dey

.... petitioner

Mr. Arnab Sengupta,
Mr. Dhiraj Labhotia,
Ms. Radhika Agarwal

... for the petitioner

Mr. A.S. Chakraborty,
Mr. B. Roy

... for the State

1. It is rightly pointed out by learned counsel for the petitioner that the application has been erroneously classified as CRM (NDPS) 769 of 2023, whereas the application does not arise from an NDPS case.
2. In such view of the matter, the Office is directed to carry out the necessary corrections in the records and properly classify the application as CRM (DB).
3. Learned counsel for the petitioner argues that the petitioner stands on a co-equal footing with a co-accused who has already been granted bail on August 25, 2023.

4. Learned counsel for the State opposes the prayer for bail and submits that since the petitioner is a foreigner, the grant of bail might result in the petitioner fleeing justice. Moreover, the premise of grant of bail to the co-accused on August 25, 2023, it is argued, was that trial had not yet commenced whereas in the meantime one witness has already been examined and the next date is fixed for examination of the prosecution witness nos.2 and 3. In total, there are twelve witnesses.
5. We find from a perusal of the order dated August 25, 2023 that the premise on which the bail was granted was that there had been no progress in the trial. Charge-sheet had been submitted on February 02, 2023 and charges were framed on April 10, 2023. It was recorded by the court that several dates were fixed thereafter from June 03, 2023 onwards but there was no trial since admittedly the trial court was lying vacant.
6. We find from the records that another recorded consideration of granting bail was that the petitioner had already been in custody for about nine months.
7. The allegations levelled against the petitioner are similar to those raised against the co-accused who is on bail. Moreover, there is nothing to show that the trial will be concluded soon. Only one out of the twelve witnesses has been examined as yet. Hence, the observation of the Court dated August 25, 2023, that there had not been any progress in trial, still holds good, as no substantive progress has taken place in the trial. Although the trial court has

commenced trial and one witness has been examined, it is yet far off to conclude the trial in view of eleven other witnesses being yet to be examined.

- 8.** Hence, we find no ground to refuse the bail to the petitioner on the ground of parity with the co-accused.
- 9.** Accordingly, the present bail application is allowed, granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Assistant Sessions Judge, Siliguri.
- 10.** The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial.
- 11.** Further, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)