

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

10.01.2023
Court No.1
Item. 15
(Suvendu)

CRM(DB) 443 OF 2022

An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Shitalkuchi Police Station Case No. 104/2021 dated 05.05.2021 under Sections 302/34 of the Indian Penal Code, 1860 and sections 25/27 of the Arms Act.

And

In the matter of: Saher Ali Mia

.Petitioner.

Mr. N. S.Bose
Mr. Shaharayar Alam
Mr. Zakir Hussain
Mr. D. Das

For the Petitioner.

Mr. Sudipto Kumar Mazumdar, Ld. DSG,
Mr. Ajoy Kumar Singhanian

For the CBI.

The petitioner has been in custody for 347 days. The petitioner's prayer for bail was earlier rejected by two orders of coordinate Benches, first on 7th June, 2022 and next on 3rd August, 2022. The allegation against the petitioner is of alleged complicity in post-poll violence.

The petitioner, through his learned counsel, says that the involvement is to the extent of making a phone-call. Whatever be the allegations and counter-allegations, we are struck by the fact that despite being in custody for 347 days and 60 witnesses being in line for the trial, 19th January, 2023 has been fixed for framing of charges. The extremely slow progress in the trial and the number of witnesses makes the conclusion of trial uncertain.

We have granted bail to 2 others implicated on similar charges in CRM(DB) 426 of 2022 on 9th January, 2023. We see no reason to differ from the aforesaid view. The prayer for bail is hence allowed.

The decision relied on by learned counsel appearing for the prosecution namely *Prasanta Kumar Sarkar Vs. Ashis Chatterjee & Another, 2010(14) SCC 496*, was a case of a much more serious offence where the involvement of the accused was established on the material before the Court. This case is hence of no assistance to the prosecution.

We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties each of like amount, one of who must be local, to the satisfaction of the learned A.C.J.M., Mathabhanga. The petitioner shall not induce witnesses or influence them or tamper with evidence. The petitioner shall also make himself available for the trial as and when the petitioner is required and shall also not leave the jurisdiction of Mathabhanga Police Station.

CRM(DB) 443 of 2022 is accordingly allowed and disposed of in terms of the above.

(SIDDHARTHA ROY CHOWDHURY,J.) (MOUSHUMI BHATTACHARYA,J.)

