

AD-17
Ct No.01
Jalpaiguri
31.01.2023
TN

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

CRM (DB) 467 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.12.2022 in connection with New Jalpaiguri Police Station Case No. 930 of 2018 dated 22.12.2018 under Section 392 IPC, adding Sections 395/412 IPC read with Section 25(1)(a) of Arms Act, corresponding to Sessions Case No. 106 of 2019.

And

In the matter of: Md Khairul and others

.... petitioners

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

... for the petitioners

Mr. Nilay Chakraborty,
Mr. Kallol Nag

... for the State

The petitioners contend that the petitioners are in custody for about 4 years 1 month and 7 days. However, till date, only 4 out of 19 proposed witnesses have been examined. As such, the trial is going on inordinately and there is no immediate chance of conclusion of the same.

Learned counsel for the State submits, in his usual fairness, that inasmuch as the petitioner nos.1, 3, 4 and 5 are concerned, the charges against them are not so serious so as to oppose the bail. However, inasmuch as the petitioner no.2 is concerned, it is argued that he has criminal antecedents and that arms were recovered from the person of the petitioner no.2 and, as such, the gravity of his offence is serious.

Upon considering the submissions of learned counsel, it transpires that all the petitioners have been in custody for more than 4 years. There is no chance of conclusion of the trial in the near future, in view of only 4 out of the 19 suggested witnesses having been examined.

Inasmuch as the other petitioners than petitioner no. 2 are concerned, in view of the submission of the State, in any event, they should be granted bail. Inasmuch as the petitioner no. 2 as well, in view of the inordinate delay in conclusion of the trial, we are of the opinion that bail should be granted to the said petitioner as well.

Accordingly, CRM (DB) 467 of 2022 is disposed of, thereby granting bail to all the five petitioners. In case of the petitioner no. 2, however, he shall be released on bail on condition that the petitioner no. 2 furnishes 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 Additional Sessions Judge, First Court, Jalpaiguri.

None of the petitioners shall leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on every date. The petitioners shall not 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.)

(Rai Chattopadhyay, J.)