

03.04.2024
tkm/ct 28
sl no. 22

C.R.M. (DB) 126 of 2024

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Galsi P.S case no. 3 of 2017 dated 3.1.2017 under sections 302/272 IPC and section 46AA of the Bengal Excise Act

and

Allowed

In Re : Anna Bauri @Anna Bouri petitioner

Mr. Sujoy Sarkar
Mr. P Mukherjee
Mr. Rahul Chachan

..... for the petitioner

Mr. Kallol Mondal

..... for the SLSA

Mr. Debasish Roy, Id PP
Ms. Baishakhi Chatterjee

..... for the State

1. Petitioner is in custody for more than seven years. He contends there is inordinate delay in trial. He prays for bail.
2. Learned public prosecutor submits the case involves death of eight persons through consumption of illicit liquor. Delay is not attributable to the prosecution and occurred due to repeated change of lawyer by the defence. He opposes the bail prayer.
3. We have considered the materials on record. Case arises out of an unfortunate hooch tragedy which occurred in the new year of 2017. Eight persons had died and a large number of others were taken ill. Petitioner was arrested and is facing trial for last seven years. Though the allegations are serious, perusal of the order sheet shows laxity on the part of the prosecution to take prompt and effective steps and conclude the trial. It is relevant to note initially petitioner was not given any legal representation. Gravity of the crime and its social impact may shock the

conscience of society, but this cannot be a reason for members of the legal profession to refuse to represent the accused. Such a situation arose in this case. Finally DLSA authorities appointed a lawyer from their panel who grudgingly accepted the brief. Learned trial judge doubted his competence and he was replaced by another lawyer who unfortunately died.

4. During hearing of the bail application, this court was construed to intervene and one Mr. Kamal Dutta, learned advocate consented to represent the accused. We appreciate the stance of Mr. Dutta.

5. These circumstances have exacerbated the delay. Petitioner cannot be held responsible for the delay. Report submitted on behalf of the State shows they propose to examine 40 more witnesses. An optimistic timeframe of five months to examine 40 witnesses has been cited in the report which we take with a pinch of salt. Examination of 40 witnesses under circumstances prevailing in the trial courts would take not less than 2/3 years. No doubt gravity of the offence is a relevant parameter but protracted undertrial detention running over seven years persuade this court to release the petitioner on bail however, subject to strict conditions.

6. Accordingly, the petitioner be released on bail upon furnishing 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 CJM Purba Burdhan on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner

whatsoever and on further condition that the petitioner while on bail shall remain within the district of Purba Burdhan and shall report to the Officer-in-Charge of Galsi police station once in a week until further orders.

7. In the event he fails to do so or resorts to dilatory tactics and delay the trial, trial court shall be at liberty to cancel his bail without reference to this court.

8. The application being CRM (DB) 126 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)