

31.01.2024
Sl. No.24
akd
[ALLOWED]

C. R. M. (DB) 268 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.01.2024 in connection with Bhadreswar Police Station Case No.430 of 2015 dated 18.12.2015 under Sections 302/201/34 of the Indian Penal Code. (G.R. Case No.1720 of 2015)

And

In Re: ***Tumpa Malik***

... .. Petitioner

Mr. Bitasok Banerjee

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Trina Mitra

... .. for the State

1. It is submitted on behalf of the petitioner that she is in custody for more than eight years. It is further submitted there is inordinate delay in trial. Accordingly, she prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits there are ample evidence showing involvement of the petitioner in the murder. Only three witnesses are left to be examined.
3. We have considered the materials on record. Petitioner is in custody for more than eight years. Though her bail prayer was rejected on merits lastly in September, 2022, we note no prosecution witnesses had turned up since 2021. This shows callous indifference on the part of the prosecution to lead evidence. The remaining prosecution witnesses are official witnesses and there is no chance of their being won over. Under such circumstances, we are of the opinion petitioner has suffered protracted period of undertrial detention which infracts her fundamental right to speedy trial and she is entitled to bail on this score.

4. Therefore, the accused/petitioner, namely ***Tumpa Malik***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Chandannagore, Hooghly subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
5. In the event she fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel her bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)