

04.04.2024.
30.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 647 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Burtolla P.S. Case No.20 of 2015 dated 10.01.2015 under Sections 302/304 of the Indian Penal Code and charge sheet submitted under Sections 302/304 of the Indian Penal Code.

In the matter of : **Md. Sahanur Islam @ Sahanur Islam @ Kochi.**

.... Petitioner.

Syed Shahid Imam,
Md. Khairul,
Md. Jafar Belal Hossain.

...for the Petitioner.

Mr. Joydeep Roy, Id. Jr. Govt. Adv.,
Mr. Arani Bhattacharjee.

...for the State.

1. Petitioner is in custody for more than nine years. He submits there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits report. He contends only on five occasions prosecution had sought adjournment whereas defence sought adjournment on thirteen occasions.
3. In rebuttal learned Advocate for the petitioner submits during pendency of the bail application, Public Prosecutor was not present on 19.02.2024, but the Judge recorded evidence on his own motion.
4. We have considered the materials on record. Allegations against the petitioner are serious and if proved, would attract mandatory life imprisonment. However, petitioner has suffered incarceration for more than nine years. While gravity and

seriousness of the accusation are relevant considerations for bail, protracted under-trial detention is also an important factor which must be borne in mind while considering prayer for bail. All the vital witnesses have been examined. Remaining witnesses are police witnesses and there is no chance of winning them over. Petitioner has permanent home and hearth and there is no possibility of abscondence.

4. Under such circumstances particularly in view of the protracted detention suffered by the petitioner, we are of the opinion further detention is not necessary and petitioner may be enlarged on bail subject to strict conditions.

5. Accordingly, the petitioner viz., **Md. Sahanur Islam @ Sahanur Islam @ Kochi** shall 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 Chief Metropolitan Magistrate, Calcutta subject to condition that he 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 and on further condition petitioner while on bail shall remain within Rajarhat Police Station except for attending court proceeding and shall report to Detective Department, Lalbazar once in a week until further orders.

6. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty

to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)