

18.4.2024
Ct. No. 28
SL No. 44
Bd / SB

C.R.M. (DB) 1164 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Serampore P.S. Case No. 475 of 2018 dated 03.10.2018 under Sections 394/397 of the Indian Penal Code read with Sections 25 and 27 of the Arms Act.

And

In the matter of: Suraj @ Suroj Prasad

Ms. Jeenia Rudra ...for the Petitioner

Mr. Subhomay Bhattacharyya
Mr. Asraf Mandalfor the State

1. Heard learned lawyers for the parties.
2. We have considered the materials on record.
3. Petitioner is in custody for five years and four months. He submits that there is a delay in progress. In spite of direction given by this Court on 14.9.2023 in CRM (DB) 3573 of 2023 to conclude trial within six months from the date fixed for recording evidence, only one witness has been examined in part. He renews his bail prayer.
4. Learned lawyer for the State opposes the prayer for bail.
5. We have considered the materials on record. Petitioner had prayed for bail earlier in CRM (DB) 3573 of 2023. Noticing that the accused had sought for deferment of cross-examination which had delayed the proceeding, this Court was not inclined to grant bail at that stage. However, Trial Court was requested to conclude the trial within six months from the next date fixed for recording the evidence. This order was communicated in October 2023. Thereafter, dates were fixed for recording evidence on 18.12.2023, 30.12.2023 and 29.02.2024. But no witness turned up. This shows indifference on the part of the prosecution to adduce evidence.
6. Petitioner is in custody for a considerable period of time. There is no possibility of trial concluding in near future.

7. Accordingly, we are inclined to grant bail to the petitioner.
8. Accordingly, the petitioner 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 Additional Sessions Judge, 2nd Court, Serampore, Hooghly subject to the condition that the 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.
9. In the event he fails to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel his bail automatically without any further reference to this Court.
10. The application for bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)