

CRM (DB) 1420 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Santipur Police Station** Case No. **83 of 2019** dated **16.02.2019** under Sections **302/34** of the Indian Penal Code read.

- A n d -

In the matter of : Tapan Biswas

.... Petitioner.

Mr. Khalid Hassan,

... For the Petitioner.

Mrs. Faria Hossain,
Mr. Parvej Anam,

... For the State.

The petitioner is in custody for more than five years. The charge is no doubt grave i.e., under Section 302 of the Indian Penal Code.

The petitioner says that there is no eye-witness. The entire evidence is circumstantial.

Learned Advocate for the State says that the offending weapons were recovered from the petitioners. Seven out of seventeen witnesses have been examined. There is sufficient incriminating evidence against the petitioner.

By an order dated May 6, 2024, a Coordinate Bench had called for a report from the State as regards the reason for the delay in trial. Such report has been filed in Court today.

We find that on three occasions the prosecution took adjournment and on three occasions the defence took time. On the rest of the occasions, it was either because the P.O. was on leave or resolutions of the Bar not to attend court that the trial could not be held.

We, therefore, see that the petitioner cannot be held substantially responsible for the delay in the progress of the trial. Five year is a very long period of time. The importance of the fundamental right to personal liberty envisaged under Article 21 of the Constitution of India cannot be over emphasized. We are inclined to grant bail to the petitioner on the ground of delay in conclusion of the trial but on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Tapan Biswas**, 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 Judicial Magistrate, Ranaghat, Nadia and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Apurba Sinha Ray, J.)**

(**Arijit Banerjee, J.)**