

22.
21-06-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 1558 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chanditala Police Station Case No.220 of 2011 dated 27-09-2011 under Sections 396/412 of the Indian Penal Code and Sections 25/27 of the Arms Act.

- A n d -

In the matter of : Mithun Dutta

.... Petitioner.

Mr. Mahfuzus Salam Mollah

... For the Petitioner.

Ms. Faria Hossain,
Mr. Bidyut Kumar Roy

... For the State.

The charge is under Sections 396/412 of the Indian Penal Code read with Sections 25/27 of the Arms Act. The petitioner renews his prayer for bail which was last rejected in the year 2013.

Incredible as it may sound, the petitioner is in custody for close to 12 years. The trial is still pending. This is absolutely unimaginable and such long incarceration of an under-trial just because the trial is being delayed, cannot be countenanced.

Learned advocate for the State says that there is clinching evidence against the petitioner from whom firearms were recovered. He was caught red-handed with the booty of the dacoity. It was not the fault of the prosecution that the trial has been delayed. Other accused persons, who were enlarged on bail, are not attending the trial.

No amount of explanation is going to persuade us that the petitioner should continue to be in detention just because there is very strong evidence against him. If evidence is

so strong, it is in the interest of everybody concerned that the trial is brought to an early conclusion and the petitioner is convicted. However, without conviction, no citizen can be detained in custody for such a long period of time. This would be in complete violation of the citizen's fundamental right to personal liberty enshrined in Article 21 of the Constitution of India.

Purely on the ground of delay in trial, we are inclined to enlarge the petitioner on bail.

Accordingly, we direct that the petitioner, namely, **Mithun Dutta**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Additional Chief Judicial Magistrate, Serampore. 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. The petitioner shall remain within the jurisdiction of the local police station and shall report to the Officer-in-Charge of the said police station once every fortnight until further orders.

In the event the petitioners fail to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 1558 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)