

07.
Court
No.28

12.06.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1577 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Asansol South Police Station Case No. 12 of 2020** dated **06.01.2020** under Sections **302/201/120B/34** of the Indian Penal Code read with Sections **25(1B)(a)/27** of the Arms Act, 1959.
And

In the matter of: - **Dilshad Alam**

...petitioner.

Mr. Sekhar Kr. Basu, Ld. Sr. Adv.,
Mr. Diptangshu Basu, Adv.,
Ms. Suchismita Dutta, Adv.,
Ms. Pranidhi Singh, Adv.,

...for the petitioner.

Mr. Jaydeep Biswas, Adv.,
Ms. Atulya Sinha, Adv.

...for the State.

The petitioner’s first application for bail was dismissed as ‘not pressed’ by a co-ordinate Bench by an order dated February 23, 2021, passed in CRM 10933 of 2020.

The petitioner’s second application for bail was dismissed by another co-ordinate Bench by an order dated December 20, 2021, passed in CRM 8451 of 2021.

This is the third application for bail made by the petitioner. He says that he is in custody for about four years and five months. Only four out of nineteen witnesses have been examined. The sole eyewitness has turned hostile. There is no certainty as to when the trial shall conclude. He should be released on bail on whatever condition this Court may decide.

Learned Advocate for the State strongly opposes the prayer for bail. He says that the forensic report is completely against the petitioner. It may be that the sole eyewitness was declared hostile but there are other sufficient incriminating material against the petitioner.

We have considered the rival contentions of the parties. The fact that the sole eyewitness has turned hostile definitely makes some dent in the case of the prosecution. Further, the petitioner has been in custody for almost four and half years. It does not appear that the trial is likely to conclude at an early date.

Hence, we are inclined to allow this application for bail but on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Dilshad Alam**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two registered sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Bardhaman, subject to condition that –

- 1) The petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
- 2) The petitioner shall not leave his local address till conclusion of trial unless such conditions have been relaxed by the Trial Court.

- 3) If the petitioner is using any mobile phone, the phone number should be furnished to the Officer-in-Charge of the concerned Police station immediately upon being released on bail.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any 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 being CRM (DB) 1577 of 2024 is accordingly allowed and disposed of.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)