

CRM (DB) 1620 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Goalpokher Police Station** Case No. **75 of 2023** dated **18.02.2023** under Sections **147/148/149/326/307/302/506/34** of the Indian Penal Code read with Sections 25(1-A)/27/35 of the Arms Act.
- A n d -

In the matter of : Tousif @ Md. Tousif Reza @ Tousif Reza @ Raj Babu

.... Petitioner.

Mr. Sekhar Kumar Basu
Mr. D. Basu,
Mr. Sayan Das,

... For the Petitioner.

Mr. Subhamay Bhattacharyya,
Mr. Saibal K. Dasgupta,

... For the State.

Mr. Mrityunjoy Chatterjee,
Md. M. Nazar Chowdhury,
Mr. S. De,

..... for the defacto complainant.

The petitioner says that he is in custody for 486 days.

There are several accused persons. Some of them have been granted bail by this court. The petitioner says that he stands on the same footing as those persons. This is disputed by learned Advocate for the defacto complainant and learned Advocate for the State.

We have gone through the material in the case diary. There definitely is some material incriminating the petitioner.

However, the petitioner has been in custody for a very long period of time. Out of 48 witnesses named in the charge sheet, not a single witness has been examined till date. We are told that June 20, 2024 was fixed as the date for recording of witness. However,

due to non-availability of the presiding officer, witness action could not start.

It is anybody's guess when the trial will conclude. We cannot lose sight of the petitioner's fundamental right to personal liberty envisaged under Article 21 of the Constitution of India. He is already in incarceration for 486 days. It is practically impossible to conclude the trial within a reasonably short period of time.

Hence, solely on the ground of delay in progress of the trial, we are minded to enlarge the petitioner on bail.

Accordingly, we direct that the petitioner, **Tousif @ Md. Tousif Reza @ Tousif Reza @ Raj Babu**, 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 Chief Judicial Magistrate, Islampur, Uttar Dinajpur and on further conditions that he shall not enter the jurisdiction of the Goalpokher Police Station. 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.)**