

20.06.2024
Item no. 82.
Court No.28.
AB
(Allowed)

CRM (DB) 1649 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Tamluk Police Station Case No.321 of 2021 Dated 18.4.2021 under Sections 302/120B/34 of the Indian Penal Code

And

In the matter of : Parvej Khan

.....Petitioner.

Mr. Anand Keshri
Ms. Sutapa Ghosh (Bose)for the Petitioner.

Mr. Joydip Biswas
Ms. Snigdha Sahafor the State.

Pursuant to our order dated June 13, 2024, the State has filed the report.

Let the same be kept with the records.

Learned Advocate for the State says that out of five accused persons, three are absconding. Proclamation and Warrant of Arrest have been issued. The same is yet to be executed. That is why the trial could not be split up and proceeded with.

We find that while rejecting the petitioner's prayer for bail on March 22, 2023, in CRM (DB) 1040 of 2023, a Coordinate Bench directed that "Learned Magistrate shall take steps for apprehension of the absconding accuseds and in the event, their attendance cannot be ensured in spite of exhaustion of all processes, the court shall declare them as proclaimed

offenders and commit the case to the Court of Sessions at the earlier.”

The petitioner is in custody for about two and half years. The delay in progress of the trial cannot be attributed to him. Personal liberty has to be given due importance. It is part of the fundamental right under Article 21 of the Constitution of India. The case has still not been committed. It is anybody's guess as to how long the trial will take to be concluded.

Purely on the ground of delay in progress of the trial, we are inclined to allow this application.

Accordingly, we direct that the petitioner, namely **Parvej Khan** 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, Purba Medinipur at Tamluk and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Inspector-in-Charge of the concerned police station once in a week 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 and/or commit any cognizable offence 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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)