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26-06-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 1676 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Harischandrapur Police Station** Case No. **482 of 2022** dated **17.06.2022** under Sections **302/120B** of the Indian Penal Code.

- A n d -

In the matter of : Abu Kalam

.... Petitioner.

Mr. Bibhasan Bhattacharjee,
Mr. S. Pakrashy,

... For the Petitioner.

Mr. Arindam Sen,
Mr. Saibal Dasgupta,

... For the State.

Liberty is granted to learned Advocate on record for the petitioner to amend the cause title of the bail petition.

The charge is of murder. There is no eye witness of the incident. Only circumstantial evidence is there.

The petitioner says that he is custody for more than two years. Only one out of eighteen witnesses named in the charge sheet, has been examined. The quality of evidence is also very poor in so far as the petitioner is concerned. The other accused person being the wife of the deceased, a juvenile, has been granted bail.

Learned Advocate for the State opposes the prayer for bail and says that there is sufficient incriminating evidence against the petitioner. He shows us statement of witnesses recorded under Section 161 of the Code of Criminal Procedure to the effect that the petitioner was seen running away from the direction of the house of the deceased.

Without going into the quality of evidence, we see that there is practically no possibility of early conclusion of the trial. 17

witnesses remain to be examined. Charge had been framed in July, 2023. In the last one year one witness has been examined who has been declared hostile.

In view of the aforesaid and keeping in mind the importance of the fundamental right to personal liberty and a citizen's right to speedy trial, which right must override all other considerations, we are inclined to grant bail to the petitioner purely on the ground of delay in trial.

Accordingly, we direct that the petitioner, **Abu Kalam**, 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 Sessions Judge, Chanchal, Malda 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.)**