

55.
20-06-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 1786 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Habra Police Station Case No.159 of 2011 dated 01-04-2011 under Sections 498A/302 of the Indian Penal Code.

- A n d -

In the matter of : Kumar Paul

.... Petitioner.

Mr. Debasis Kar,
Mr. Subhajit Chowdhury

... For the Petitioner.

Mr. Bibhaswan Bhattacharya,
Ms. Pinky Sarkar

... For the State.

This is a case of 2011. The petitioner says that he is in custody for almost 11 years. The trial is still continuing.

Learned advocate for the State says that the petitioner was absconding for two years. After his arrest, it is true that he has been in custody for almost 11 years.

We have been told that nine out of eighteen witnesses have been examined. Therefore, there is no likelihood of the trial being concluded at an early date.

We cannot be oblivious of a citizen's fundamental right to personal liberty as envisaged under Article 21 of the Constitution of India. Almost 11 years in custody cannot be accepted in respect of any under-trial. There may be concrete evidence against the accused. The trial should be brought to an early conclusion and he should be convicted if the evidence is so strong. However, the trial cannot be kept pending for an indefinite period of time.

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

Accordingly, we direct that the petitioner, namely, **Kumar Paul**, 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 Chief Judicial Magistrate, Barasat. 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 petitioner fails to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 1786 of 2024 is, thus, **allowed**.

Report filed by the Public Prosecutor, representing the State before the learned trial Court, be kept with the records.

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.)