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20-06-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 1793 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kakdwip Police Station** Case No. **174 of 2022** dated **11.06.2022** under Sections **302/201/120B** of the Indian Penal Code.

- A n d -

In the matter of : Swapan Mondal @ Kalu & Anr.

.... Petitioners.

Mr. Ayan Basu,
Mr. Sandip Kr. Mondal,
Mr. Samit Routh,
Ms. Tanusri Das,

... For the Petitioners.

Mr. Madhusudan Sur, APP,
Mr. Sujoy Sarkar,

... For the State.

The petitioners are in custody for more than two years.

The charge is no doubt grave. However, there is no eye-witness.

Till date one out of 42 witnesses has been examined, that too, in part. It is anybody's guess as to when the trial will conclude.

Mr. Sur, learned Additional Public Prosecutor vehemently opposes the prayer for bail. He says that there is sufficient incriminating material against the petitioners. The petitioner no. 1 and the petitioner no. 2, who is the wife of the deceased had an affair. They conspired to eliminate the victim. The offending weapon was recovered on the basis of the leading statement made by the petitioner no. 1. The post mortem report and the statements recorded under Section 164 Cr. P. C. will also support the prosecution case.

The prosecution may have a very very strong case, we are not on that. However, any citizen including an under trial has a fundamental right to speedy trial. In this case for more than two years the petitioners are in incarceration. There is no appreciable progress in the trial. There is no likelihood of the trial being carried to its logical conclusion at an early date. Under trial persons cannot be kept in custody indefinitely on the specious plea that trial is delayed, particularly when it is not the case of the prosecution that the accused person is responsible for the delay.

We are, therefore, inclined to allow the prayer for bail of the petitioners.

Accordingly, we direct that the petitioners, namely, **Swapan Mondal @ Kalu and Dipali Ganguly**, shall be released on bail upon furnishing a bond of Rs. 10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Kakdwip, South 24 Parganas and on further conditions that they shall not leave the jurisdiction of the concerned police station and the petitioner no. 1 shall meet the Investigating Officer once in a fortnight until further order. The petitioners 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 petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' 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.)