

21.06.2024
Item no.16.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 1829 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 12.06.2024 in connection with Baranagar Police Station Case No. 617 of 2017 dated 30.08.2017 under Sections 302/201 of the Indian Penal Code.

And

In the matter of : Ramkrishna Talukdar @ Partha.

.....Petitioner.

Mr. Debasis Kar,for the Petitioner.

Mr. Saryati Dutta,

Ms. A. Sinha,for the State.

The charge is no doubt grave. It is of murder and secreting evidence.

The petitioner says that he is in custody for almost 7 years, having been taken into custody on August 31, 2017. His earlier prayer for bail was rejected by a Co-ordinate Bench by an order dated October 31, 2022 in CRM (DB) 3742 of 2022. However, the Co-ordinate Bench requested the learned Trial Court to expedite the trial and conclude the same at an early date and preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournments to either of the parties. Even after the said order, no appreciable progress has taken place in the trial. He prays for bail.

Learned advocate for the State while opposing the prayer, says that the earlier order of the Co-ordinate Bench was

communicated to the learned Trial Court only on March 1, 2023. Thereafter, from December 11, 2023 till date, there is no Presiding Officer. Hence, the delay in trial. The prosecution cannot be blamed for the delay.

No explanation could be furnished by the prosecution for the delay that occurred prior to the order dated October 31, 2022. Charge-sheet was submitted on November 20, 2017. Charges were framed on February 22, 2018. Why no progress took place after that till the Co-ordinate Bench passed the order dated October 31, 2022, is not explained.

Right to personal liberty is a fundamental right guaranteed by the Constitution of India. While an offender should definitely be taken to task following due process of law, a citizen charged with an alleged offence, cannot be kept in custody for an indefinite period of time even if the trial takes years together for no fault of the charged person. In the present case, apart from the fact that the prosecution has shown no diligence in proceeding with the trial, it cannot also take the plea that the post of Presiding Officer is lying vacant since December 2022. It is the State, who is the appointing authority. In a way the State is trying to take advantage of its own wrong by keeping the relevant post vacant.

Almost seven years is a very long time period for keeping somebody in incarceration. There is no possibility of the trial coming to an early conclusion. Two out of twenty-five witnesses have only been examined.

In the facts aforesaid, solely on the ground of delay in trial, we are inclined to enlarge the petitioner on bail.

Accordingly, we direct that the petitioner namely **Ramkrishna Talukdar @ Partha** 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, Barrackpore and on further conditions that he shall remain within the jurisdiction of the concerned police station. And on further conditions that he shall furnish his local address to the learned Trial Court and shall not leave the jurisdiction of the North 24-Parganas without the leave of the learned Trial Court.

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.

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.)