

13.
Court
No.28

09.07.2024

(Tanmoy)

Rejected

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2045 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Hanskhali P.S. Case No. 327/2022 dated 10.04.2022.

And

In the matter of: - **Samarendra Gayali @ Samar**

...petitioner.

Mr. Arindam Jana, Adv.,
Mr. Asraf Mondal, Adv.,
Mr. Md. Bani Israil, Adv.

...for the petitioner.

Mr. Himanshu De, Ld. Sr. Adv.,
Mr. Somnath Adhikary, Adv.

...for CBI.

The petitioner is one out of several accused persons. The allegation is very serious i.e. of gang rape. The victim passed away.

The petitioner says that he is in custody for 870 days. Only 12 out of 75 witnesses have been examined. There is no certainty as to when the trial will conclude. He should be granted bail on any condition that this Court may decide.

The petitioner also refers to an order dated May 10, 2024, passed by a co-ordinate Bench in CRM (DB) 1323 of 2024, whereby, a co-accused person, Angshuman Bagchi, was enlarged on bail. This petitioner says that he stands on a better footing than Angshuman since the charge against Angshuman

includes Section 201 of Indian Penal Code, but that Section has not been invoked against him.

Learned Senior Counsel for Central Bureau of Investigation (CBI) strongly opposes the prayer for bail. He says that this petitioner is a politically influential person. It is also stated that this petitioner has antecedents and is involved in six other cases. He draws to our attention to the evidence of PW 2 recorded by the learned Trial Court. A small portion of that evidence is reproduced hereunder:

“... Thereafter, in the P.S. itself, at that time itself Samar Gayali started saying to me that I have spoiled the future life of his son in such a manner. After that, the O.C. ousted us from the P.S. room. Then, after 12.00 at night, we were again taken to go in the room of the O.C. At that time, the O.C. offered us to Rupees Ten Lakhs, so as to withdraw our complaint. To that, I replied that, my daughter has died, what I will do with the money, I want punishment of the culprits. At about 01.15 a.m. at night, we were sent back to our house by the police. In the midway to our house, the O.C. telephoned us asking us to go to the P.S. at 10.00 a.m. in the morning. ...”

We have considered the facts and circumstances of the case and the material on record. We are of the view that if we enlarge this petitioner on bail, he might tamper with evidence or influence witnesses or threaten them and otherwise try to influence the trial. We are, therefore, not inclined to allow his prayer for bail, at this stage.

The prayer for bail is rejected.

The application being CRM (DB) 2045 of 2024 is accordingly dismissed.

However, in view of the fact that the petitioner is in custody for an appreciable period of time, we direct the learned

Trial Court to expedite the trial to the utmost and conclude the same as soon as possible.

This order shall be immediately communicated by the parties to the learned Trial Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)