

19.07.2024
Item no. 44.
Court No.28.
AB
(Allowed)

CRM (DB) 1995 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No.1503 of 2022 Dated 31.12.2022 under Section 302/120B/34 of the Indian Penal Code read with Sections 25/27 of the Arms Act

And

In the matter of : Md. Ashik Nawaz

.....Petitioner.

Mr. Rajdeep Majumdar,
Mr. Pritam Roy,
Mr. S. Bhattacharya,
Ms. Triparna Royfor the Petitioner.

Mr. Avishek Sinha,
Mr. Subhasis Duttafor the State.

The petitioner renews his prayer for bail, which was rejected earlier on May 1, 2023 and then July 4, 2023, on the ground that there is no change of circumstances.

The petitioner says that he has been falsely implicated. The death of the victim happened apparently due to gunshot. However, the bullet could never be recovered. Hence, there is no ballistic report to the effect that the firearm that was seized from this petitioner was used to shoot the victim. He is in custody for one year seven months. Charge has been framed. Witness action has not yet begun. There are 20 charge sheet named witnesses. He prays for bail.

Learned Advocate for the State says that there is sufficient incriminating evidence against this petitioner.

However, it is true that the bullet could not be recovered. Further, he says that as per his instruction, only 14 out of 20 charge sheet named witnesses would be examined. He also draws our attention to an order dated September 25, 2023, whereby the petitioner withdrew his Special Leave Petition filed against an earlier order of rejection, from the Hon'ble Supreme Court.

We have considered the rival contentions of the parties. A vital piece of evidence is missing. However, without going into the merits, we see that the petitioner is already in custody for about one year seven months. All other accused persons are on bail. Investigation is complete. We do not see how the trial will conclude at an early date.

Keeping in mind the paramount importance of personal liberty and a citizen's right to speedy trial, solely on the ground of delay in trial, we allow this application.

Accordingly, we direct that the petitioner, namely **Md. Ashik Nawaz** 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 Chief Judicial Magistrate, 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 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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)