

CRM (DB) 2105 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Nowda Police Station** Case No. **247 of 2019** dated **10.09.2019** under Sections **447/302/120B/34** of the Indian Penal Code read with Sections 25/27 of the Arms Act.

- A n d -

In the matter of : Sujat Ali Sk.

.... Petitioner.

Mr. Ayan Bhattacharjee,
Ms. A. Sultana,

... For the Petitioner.

Mrs. Amita Gour,
Ms. D. Mondal,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Read order dated August 21, 2024. Be it noted that in that order in the first paragraph it has been erroneously recorded that the petitioner is in custody for three years and 21 days. Learned Advocates for the parties say that in fact the petitioner is in custody for four years and eleven months seventeen days i.e., almost five years.

2. Report filed by the State be kept with the records. Learned Advocate for the State says that after the Hon'ble Apex Court rejected the petitioner's prayer for bail in May 2023, charge was framed. Witness action started. Three witnesses have already been examined. The next schedule starts from August 27, 2024. In view of substantial progress having been made in the trial, the petitioner's prayer should be rejected.

3. We are not satisfied with the pace at which the trial is progressing. There are 74 charge sheet named witnesses. Only 3 have been examined till date. The petitioner is in custody for about five years. It is anybody's guess when the trial will conclude.

4. The fundamental right of a citizen be, he an under trial or anybody else, to personal liberty and speedy trial, as enshrined in Article 21 of the Constitution of India, is of utmost importance and the same must override all other considerations.

5. Solely on the ground of delay in progress of the trial, without commenting on the merits of the case, we are inclined to allow the petitioner's prayer for bail but on stringent conditions.

6. Accordingly, we direct that the petitioner, namely, **Sujat Ali Sk.**, 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 Sessions Judge, 4th Court, Berhampore, Murshidabad 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 in any manner whatsoever.

7. 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.

8. The application for bail is, accordingly, allowed.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Bivas Pattanayak, J.)**

(**Arijit Banerjee, J.)**