

13.
Court
No.28

29.08.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2131 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 **Hogalberia** Police Station Case **No.277/2021** dated **28.11.2021** under Section **376(j)(i)** of the Indian Penal Code. Charge-sheet submitted under Section **376(2)(i)(k)** of the Indian Penal Code.

And

In the matter of: - **Mintu Roy @ Utpal** ...petitioner.

Mr. Bibaswan Bhattacharya
Mr. Asraf Mandal ...for the petitioner.

Mr. Joydeep Biswas
Ms. Suchismita Dutta ...for the State.

Dictated by Arijit Banerjee, J.

1. Service report in the form of affidavit filed by the State be kept with the records. In spite of service of this bail application upon the victim, nobody appears on her behalf.
2. The petitioner renews his prayer for bail which was rejected thrice earlier and lastly on January 5, 2023 in CRM (DB) 11 of 2023. The petitioner is in custody for two years and nine months. He prays for bail on the ground of inordinate delay in progress of the trial.
3. While opposing the prayer for bail, learned State Counsel says that there are sufficient incriminating material against this petitioner.

4. The prosecution may have a very strong case. However, we find that only one out of 13 charge-sheet named witnesses has been examined and that too, in part. The petitioner is languishing in judicial custody for a very long period of time. There is no possibility of an early conclusion of the trial.
5. Keeping in mind the paramount importance of a citizen's fundamental right to personal liberty and speedy trial, solely on the ground of delay in progress of trial and without commenting on the merits of the case, we allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Mintu Roy @ Utpal** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Tehatta, Nadia, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall not enter the geographical limits of the district of Nadia except for the purpose of attending Court proceedings and shall furnish his current address to the Officer-in-Charge of Hogalberia Police station and shall also meet the Officer-in-Charge of the jurisdictional Police Station,

where he will be presently residing, once in a week, until further orders. The petitioner shall not intimidate and/or disturb the victim lady and her family members in any manner whatsoever.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (DB) 2131 of 2024 is accordingly disposed of.
9. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)