

21.08.2024
Item no. 56.
Court No.28.
AB
(Allowed)

CRM (DB) 2216 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Hariharpara Police Station Case No.127 of 2022 Dated 23.3.2022 under Sections 392/395/412 of the Indian Penal Code read with Section 25/27 of the Arms Act

And

In the matter of : Habib Sk. @ Bonti @ Habiba Sk.

.....Petitioner.

Mr. Niladri Sekhar Ghosh,
Ms. Sampurna Chatterjee,
Mr. Sourav Mondalfor the Petitioner.

Mr. Saryati Dutta,
Mr. Santanu Talukdarfor the State.

Dictated by Arijit Banerjee, J.

1. The charge is of dacoity. The petitioner says that he has been falsely implicated. He is a jewellery shop owner. His rival in the business has engineered this false complaint giving rise to the present criminal case. He is in custody for two years three months. Only 13 out of 29 witnesses have been examined. There is no possibility of an early conclusion of the trial. On the ground of delay, he should be enlarged on bail.
2. Learned Advocate for the State, while opposing the prayer for bail, draws our attention to the materials in the case diary. He says that the petitioner was

identified in the TI Parade. There is sufficient incriminating material against the petitioner.

3. We see that the person, who was witness to the seizure list, has already been examined by the learned Trial Court and has been declared hostile by the prosecution. In any event, the petitioner has been in custody for an appreciable period of time. There is very little possibility of the trial coming to an early conclusion inasmuch as 16 witnesses remain to be examined.
4. Keeping in view the paramount importance of a citizen's fundamental right to personal liberty and speedy trial, on the ground of delay alone, we allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **Habib Sk. @ Bonti @ Habiba 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 Chief Judicial Magistrate, Murshidabad at Berhampore, 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.

6. 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.
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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)