

CRM (DB) 2316 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Duttapukur Police Station** Case No. **286 of 2021** dated **03.05.2021** under Sections **302/34** of the Indian Penal Code read with Sections 3/4 of the Explosive Substances Act and Section 9B of the Indian Explosive Act.

- A n d -

In the matter of : Shri Mujaidul Islam @ Mujaidul Islam

.... Petitioner.

Mr. Manojit Debnath,

... For the Petitioner.

Mr. Dhiraj Trivedi,

Mr. Amajit De,

... For the CBI.

Order dictated by Arijit Banerjee, J.:

1. Learned Advocate for the petitioner says that the petitioner is in custody for three years and three months. He claims parity citing an order dated August 27, 2024, whereby a coordinate Bench, in CRM (DB) 2035 of 2024 enlarged a co-accused person on bail. The petitioner says that he stands on similar footing as that person.

2. Learned Advocate for the CBI disputes the submission made on behalf of the petitioner. He says that the petitioner is not similarly circumstanced as the person who was granted bail by the order dated August 27, 2024. The petitioner is the prime accused. He hurled the bomb at the victim and killed him.

3. The prosecution may have a very strong case for convicting the accused persons. However, under trial accused persons cannot be kept in incarceration for an indefinitely long period of time. In the present case, the petitioner is in custody for three years and

three months. The trial has been stayed by the Hon'ble Apex Court. We are told that only 12 out of 28 charge sheet named witnesses have been examined. Even assuming that the Hon'ble Apex Court directs the trial to proceed, there is very little chance of early conclusion of the trial.

4. Keeping in mind the paramount importance of the fundamental right of a citizen to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India, solely on the ground of delay in progress of trial, we are inclined to allow the petitioner's prayer for bail.

5. Accordingly, we direct that the petitioner, namely, **Shri Mujaidul Islam @ Mujaidul Islam**, 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, Barasat, North 24-Parganas subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not enter the jurisdiction of North 24-Parganas except for the purpose of court proceeding and shall provide the address where he shall reside to the Investigating Officer as well as the jurisdictional court and meet the Inspector, CBI, SCB, Kolkata once in a week until further orders.

6. 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.

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

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

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)