

CRM (DB) 2593 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Baishabnagar Police Station Case No. 477 of 2020** dated **11.09.2020** under Sections **342/302/201/120B/34** of the Indian Penal Code.

- A n d -

In the matter of : Rijul Sk @ Rijul Sekh & Ors.

.... Petitioners.

Mrs. Minoti Gomes,

.... For the petitioners.

Mrs. Amita Gour,
Mr. Santanu Takuldar,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioners renew their prayer for bail which was rejected earlier on several occasions and lastly in July, 2023. They say that they are in custody for more than one year. Only 2 out of 21 charge sheet named witnesses have been examined after charge was framed in November, 2023. On the ground of delay, they renew their prayer for bail.

2. Opposing the bail prayer, learned State Advocate says that the prosecution cannot be blamed for the delay. Earlier three of the accused persons had been granted bail by the learned Trial Court. The same was challenged before this Court. The bail was cancelled. That consumed some time. After charge was framed in November, 2023, there has been progress. A time period may be indicated within which the trial should be concluded. There is sufficient incriminating material against the petitioners.

3. We are not inclined to stipulate any time frame as we are conscious that the trial courts are over burdened. Four years is far too long a period of time to keep an under-trial in incarceration without bringing the trial to its logical conclusion. The prosecution may have an excellent case for securing conviction of the petitioners. Nobody stands in the way of the prosecution doing so. However, the fundamental right of a citizen's personal liberty and speedy trial must override all considerations.

4. Solely on the ground of delay in progress of trial, we are inclined to enlarge the petitioners on bail.

5. Accordingly, we direct that the petitioners, namely, **Rijul Sk @ Rijul Sekh, Sikkim Sk @ Sikim Sk @ Sikim Sekh, Piyaarul Sk @ Piarul Sk and Samsul Sk @ Samsul Hoque**, shall be released on bail upon furnishing a bond of Rs. 10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Sessions Judge, Fast Track, 2nd Court, Malda subject to condition that they shall appear before the trial court on each and 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 petitioners while on bail 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. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' 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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)