

CRM (DB) 2361 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the BNSS in connection with **Baguiati Police Station** Case No. **154 of 2021** dated **20.03.2021** under Section **341/325/326/307/506/34** of the Indian Penal Code.

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In the matter of : Arup Ghosh

.... Petitioner.

Mr. Bidyut Kiran Mukherjee,
Mr. Ganga Prasad Mukherjee,
Mr. A. Kundu,

... For the Petitioner.

Mr. Iqbal Kabir,
Ms. Sonali Bhar,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner complains of delay in progress of trial. He says that he is in custody for about three years and six months. There is no possibility of an early conclusion of the trial. He has been falsely implicated. He renews his prayer for bail which was rejected earlier on November 15, 2021.
2. Learned State Advocate draws our attention to the statements of witnesses recorded under Section 164 Cr. P. C. as also the depositions of the witnesses already recorded before the learned Trial Judge. In particular, we have seen the deposition of the injured victim who suffered grievous harm. Allegedly the accused persons repeatedly stabbed him in both his eyes. He has lost his vision. Other injuries were also suffered in various parts of the body by the victim. In short, there is sufficient incriminating evidence against this petitioner.

3. However, the petitioner says that the fundamental right to personal liberty and speedy trial that a citizen has must override all considerations. Since there is no possibility of an early conclusion of the trial, he ought to be granted bail.

4. While we agree that the right of a citizen under Article 21 is very important, the same has to be balanced against other factors like quality and quantity of incriminating evidence that is available against an accused person, the maximum punishment that an accused person may attract if convicted, the nature and gravity of the offence, etc.

5. In the present case, no doubt, the petitioner has been in custody for an appreciable length of time. However, we find from the records that the delay cannot be attributed totally to the prosecution. On very many occasions the court was vacant. The defence cross-examined one of the witnesses for nine months. We do not think that there is any culpable delay in the present case. Further the petitioner, if convicted, may attract a maximum punishment of life imprisonment.

6. On an overall consideration of the aforesaid factors and since only six witnesses remain to be examined, we are not inclined to allow the petitioner's prayer for bail.

7. CRM (DB) 2361 of 2024 is, thus, dismissed.

8. However, considering the long detention of the petitioner, we direct the learned Trial Court to expedite the trial to the fullest extent possible and conclude the same by delivery of judgment on an early date but positively within four months from the next date fixed for recording evidence. No unnecessary adjournments will be

granted to either of the parties. If necessary frequent schedules of 3/4 days or more should be fixed by the learned Trial Judge.

9. We clarify that in the event the trial is not concluded by the learned trial court within the time period indicated above, the petitioner may renew his prayer for bail.

10. Parties and the learned Registrar General of this Court shall communicate this order to the learned Trial Court immediately.

11. 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.)