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24-09-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 2468 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the BNSS in connection with **English Bazar Police Station** Case No. **881 of 2019** dated **31.08.2019** under Sections **302/120B/201** of the Indian Penal Code.

- A n d -

In the matter of : Rofikul Sk. @ Rafikul

.... Petitioner.

Mr. Mazahar H. Chowdhury,

... For the Petitioner.

Mr. Saryati Dutta,

Mr. Asif Dewan,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner renews his prayer for bail which was rejected earlier on at least two occasions, lastly on October 12, 2023. He says that out of 22 only 6 witnesses have been examined by the prosecution. He is in custody for more than five years. There is no eye witness of the alleged incident. The entire case is based on circumstantial evidence.

2. Learned State Advocate argues that there is very strong incriminating material against this petitioner. He shows us material in the case diary including the tracking report in so far as the mobile phone of the petitioner is concerned.

3. The prosecution may have an iron cast case against this petitioner. We are not on merits. Five years is far too long a period to keep an under trial in incarceration. We notice from the order of the earlier rejection, dated October 12, 2023, that as on that date also the State had submitted 6 witnesses have already been examined. Today also the State says the same thing i.e., 6

witnesses have been examined. In other words, over the last one year or so there has been absolutely no progress in the trial.

4. In view of the inordinate and unexplained delay in progress of trial, keeping in mind the paramount importance of a citizen's fundamental right to personal liberty and speedy trial, solely on the ground of delay, we allow the petitioner's prayer for bail.

5. Accordingly, we direct that the petitioner, namely, **Rofikul Sk. @ Rafikul**, 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 Additional Sessions Judge, 5th Court, Malda and on further conditions that he shall not leave the jurisdiction of the English Bazar police station and shall report to the Officer-in-Charge of the concerned police station once in a week until further orders. 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 in any manner whatsoever.

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.

(**Apurba Sinha Ray, J.)**

(**Arijit Banerjee, J.)**