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07-10-2024
(ct. no.28)
S. De
(Allowed)

CRM (DB) 2506 of 2024

In re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Ashoknagar Police Station Case No. 246 of 2022** dated **02.04.2022** under **Sections 498A/302** of the Indian Penal Code.

- A n d -

In the matter of : Biswanath Biswas @ Chotobabu.

.... petitioner.

Mr. Susnigdho Bhattacharyya,

... For the petitioner.

Mr. Joydeep Biswas,

Mr. Asif Dewan,

... For the State.

Order dictated by Arijit Banerjee, J.

1. At the outset, we record that it has been erroneously stated in our order dated September 24, 2024, that charge had not yet been framed as on that date. The fact is that on September 10, 2024, charge was framed.
2. The petitioner is in custody for 2 years and 6 months. Charge-sheet was submitted on May 5, 2022. Charge was framed after 2 years and 4 months. Witness action has not begun. There are 7 charge-sheet named witnesses. There is absolutely no possibility of an early conclusion of the trial. The petitioner prays for bail on the ground of delay.
3. Learned State advocate while opposing the prayer, draws our attention to the material in the case diary including the statement of the daughter of the petitioner and the victim lady who has implicated the petitioner.

4. The prosecution may have an excellent case to secure conviction of the petitioner. Nobody stands in the way of the prosecution doing so. However, we must keep in mind that the fundamental right of an undertrial to personal liberty and speedy trial is paramount and must override all other considerations.
5. Hence, solely on the ground of inordinate delay in progress of the trial, we feel constrained to grant bail to the petitioner.
6. Accordingly, we direct that the petitioner, namely, **Biswanath Biswas @ Chotobabu** 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, North 24-Parganas at Barasat and on further conditions that he shall not enter into the jurisdiction of the district of North 24-Parganas except for the purpose of attending Court proceedings and shall also furnish the address where he will be residing to the Officer-in-Charge in whose jurisdiction he will be residing and shall also appear before such Officer-in-Charge once in a fortnight until further orders.
7. 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.
8. 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.
9. The application for bail is, accordingly, allowed.

10. 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.)