

33.
07-10-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 2527 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Suri Police Station Case No.196 of 2020 dated 20-07-2020 under Sections 403/406/409/417/420/120B of the Indian Penal Code and Sections 66C/66D of the Information Technology Act.

- A n d -

In the matter of : Safiul Alam

.... Petitioner.

Mr. Ayan Bhattacharya,
Mr. Kunal Ganguly

... For the Petitioner.

Mr. Rudradipta Nandy, learned APP,
Mr. Bikram Mitra

... For the State.

Dictated by Arijit Banerjee, J.

The petitioner renews his prayer for bail which was rejected earlier on several occasions and lastly in November, 2023. We see that while rejecting his prayer for bail, by an order dated June 16, 2022, a coordinate Bench had requested the learned trial Court to conclude the trial within a year. The petitioner says that much more than a year has passed by. Only four out of thirty two charge sheet named witnesses have been examined. He is in custody for more than three years seven months. He renews his prayer for bail on the ground of delay in progress of trial.

Strongly opposing the prayer for bail, learned Additional Public Prosecutor says that there is sufficient incriminating evidence against the petitioner. The petitioner cheated 100s of poor people by diverting funds in connection with MGNREGA to different relatives of the petitioner. The petitioner was the office assistant in the concerned post office.

He tampered with the computer system and defalcated funds to the tune of Rs.1.35 crores.

We have given our anxious consideration to the rival contentions of the parties. No doubt, the alleged crime is heinous in nature. If the prosecution secures the petitioner's conviction, the petitioner may attract life sentence as that is the maximum prescribed for an offence under Section 409 of the Indian Penal Code. However, we have to keep in mind that a citizen's fundamental right to personal liberty and speedy trial as contemplated by Article 21 of the Constitution of India must override all other considerations. The petitioner is in custody for a very long period of time. The nature of the charges is such that the evidence would be documentary in nature. An early conclusion of the trial is also highly unlikely. We do not see what useful purpose will be served by continuing to detain the petitioner in judicial custody.

Accordingly, we direct that the petitioner, namely, **Safiul Alam**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Chief Judicial Magistrate, Birbhum at Suri. The petitioner shall appear before the learned 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. The petitioner shall remain within the jurisdiction of the local police station and shall report to the Officer-in-Charge/Inspector-in-Charge of the said police station once in a week, until further orders.

In the event the petitioner fails to comply with any of the conditions stipulated above without any justifiable cause, the learned trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 2527 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)