

47.
06-09-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 2556 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with Mothabari Police Station Case No.250 of 2021 dated 22-08-2021 under Section 4 of the POCSO Act.

- A n d -

In the matter of : Sariful Momin

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kumar Bhowmick

... For the Petitioner.

Ms. Sayanti Santra,
Mr. Arun Sarkar

... For the State.

Ms. Sibangi Chattopadhyay

... For the defacto complainant.

Dictated by Arijit Banerjee, J.

Service Report filed by the State be kept with the records.

Learned advocate for the State says that as instructed, the prosecution intends to examine in all 15/16 witnesses out of the 31 charge sheet named witnesses. Three witnesses have already been examined, including the vulnerable witnesses.

The petitioner is in custody for more than three years. Even if the prosecution examines 15/16 witnesses, 12/13 more witnesses will have to be examined. We do not see the likelihood of the trial concluding at an early date.

After the rejection of the petitioner's prayer for bail on April 04, 2023, not a single witness has been examined.

Keeping in mind the paramount importance of a citizen's fundamental right to personal liberty and speedy trial, we have no option but to enlarge the petitioner on bail, solely on the ground of delay in progress of trial.

Accordingly, we direct that the petitioner, namely, **Sariful Momin**, 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 Additional District and Sessions Judge, 2nd Court, Special Court under POCSO Act, Malda. 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 not enter the jurisdiction of Mothabari Police Station except for the purpose of attending the court proceedings and meeting the Officer-in-Charge/Inspector-in-Charge of the said police station, until further orders. The petitioner shall, through his learned advocate, inform the learned trial Court and the Officer-in-Charge/Inspector-in-Charge of Mothabari Police Station his current local address where he would be residing while on bail. The petitioner shall report to the Officer-in-Charge/Inspector-in-Charge of Mothabari Police Station once in every fortnight, until further orders.

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

The application for bail being CRM (DB) 2556 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.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)