

22
25-09-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 2763 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **T. R. (Atro) Case No. 31 of 2021** dated **30.08.2021** under Sections **448/376** of the Indian Penal Code read with Sections 3(1)(W)(i)(ii) of SC and ST (Prevention of Atrocities) Act.

- A n d -

In the matter of : Mir Usman @ Ara @ Mir Usman Ali

.... Petitioner.

Mr. Aniket Mitra,
Sk. Sahjahan Ali,

... For the Petitioner.

Mr. Amajit De,

... For the CBI.

Order dictated by Arijit Banerjee, J.:

1. CBI's reply to the bail application filed in Court today be kept with the records.
2. The petitioner says that he is in custody for 3 years and 5 months. Only one out of 68 charge sheet named witnesses has been examined. On the ground of delay, he renews his prayer for bail which was last rejected on August 17, 2022.
3. Opposing the prayer for bail, learned CBI Counsel says that the statement of the victim lady recorded under Section 164 Cr. P. C. squarely implicates the petitioner. She is yet to be examined. The prayer for bail should not be granted now.
4. Three years five months is far too long a period of time to keep an under trial in custody without there being any appreciable progress in the trial. The importance of a citizen's fundamental right to personal liberty and speedy trial as enshrined in Article 21

of the Constitution of India, can hardly be over-emphasized. We see no possibility of an early conclusion of the trial. We further see that by the order dated August 17, 2022, while rejecting the petitioner's prayer for bail, a Coordinate Bench had directed the learned Trial Court to conclude the proceedings within one year of framing of charge. The said time frame has not been adhered to.

5. Solely on the ground of inordinate delay in the progress of the trial, we allow the petitioner's prayer for bail.

6. Accordingly, we direct that the petitioner, namely, **Mir Usman @ Ara @ Mir Usman Ali**, 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 Sessions Judge, 1st Court, (Special Court), Tamluk, Purba Medinipur subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not enter the jurisdiction of district Purba Medinipur except for the purpose of attending court proceeding and shall provide the address where he shall reside to the officer-in-charge of the concerned police station and meet the officer-in-charge of the concerned police station once in a week until further orders.

7. 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.

8. The application for bail is, accordingly, allowed.

9. 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.)