

42. 07.10.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2615 of 2024

In Re: - An application for bail under 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Sagar** Police Station Case No. **152/2020** dated **05.10.2020** under Sections **498A/304B/302/34** of the Indian Penal Code, 1860. Charge-sheet submitted under Sections **498A/304B/306** of the Indian Penal Code.

And

In the matter of: - **Sakila Bibi & Anr.**

...petitioners.

Mr. S. Ganguli
Mr. S. Nandy
Mr. S. Shasmal

...for the petitioners.

Mr. Bibaswan Bhattacharya
Mr. Sachit Talukdar

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioners renew their prayer for bail which was rejected earlier on more than one occasion. The prayer of the petitioner no.2 being the husband of the victim lady was last rejected on April 12, 2022, in CRM (DB) 971 of 2022. The prayer of the petitioner no.1 being the mother-in-law of the victim lady was last rejected on July 26, 2023, in CRM (DB) 2931 of 2023. Both of them renew their prayer for bail on the ground of undue delay in progress of trial. They say that they are in custody for more than four years. Only nine out of 25 charge-sheet named witnesses have been examined. Two of the witnesses have been declared hostile.

2. While opposing the prayer for bail learned Advocate for the State draws our attention to the material in the case diary.
3. It cannot be said that there is no incriminating evidence at all against the petitioners. However, that is a matter of merits. Four years is a very long period of time to keep an accused person in incarceration without bringing the trial to its logical conclusion. The fundamental right of a citizen to personal liberty and speedy trial is paramount, overriding all other considerations. The prosecution may well be able to secure conviction of the petitioners at the end of the trial. However, that would not justify the continued detention of the petitioners in judicial custody for an indefinite period of time.
4. Solely on the ground of delay in progress of trial, we feel impelled to enlarge the petitioners on bail.
5. Accordingly, we direct that the petitioners, namely, **1. Sakila Bibi 2. Sk. Mortoza** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, 2nd Court, Kakdwip at South 24-Parganas, subject to condition that the petitioners shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

6. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
7. The application for bail being CRM (DB) 2615 of 2024 is accordingly disposed of.
8. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)