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

CRM (DB) 2626 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 **Nimta Police Station Case No. 203** dated **05.06.2019**, under **Sections 302/34** of the Indian Penal Code read with **Section 25 (1B)(a)/27(1) of the Arms Act.**

- A n d -

In the matter of : Biswajit Kundu @ Biswa.

.... petitioner.

Mr. Sumit Kumar Basu,
Mr. Tridip Sen,
Mr. Shayan Sachin Basu,
Ms. Sriya Adhikary, ... For the petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Dhanasree Biswas, ... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was lastly rejected on November 24, 2020. He says that he is in custody for about 5 years and 3 months. Only 1 out of 38 charge-sheet named witnesses have been examined. On the ground of delay, he renews his prayer for bail.
2. Opposing the prayer, learned State advocate points out from the material-on-record that there are eye-witnesses to the incident. There are sufficient incriminating materials against the petitioner. The charge is of murder by shooting.
3. We have seen the material-on-record as also the deposition of PW-1. According to PW-1, one Sumon Kundu is the assailant. That witness does not mention the present petitioner.

4. More importantly, the petitioner is in custody for 5 years and 3 months. Although the prosecution may not be responsible for the delay in progress of trial, we find that on several occasions the Court was vacant. Such a long period of detention is not permissible in view of the fundamental right that every citizen has to personal liberty and speedy trial. The prosecution may have a very strong case. We do not make any comment on merit. However, one cannot be kept in judicial custody indefinitely without bringing the trial to its logical conclusion.
5. Solely on the ground of delay in progress of trial, we feel constrained to enlarge the petitioner on bail.
6. Accordingly, we direct that the petitioner, namely, **Biswajit Kundu @ Biswa** 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 Additional Chief Judicial Magistrate, North 24-Parganas at Barrackpore and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station 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.)