

13.09.2024
Sr. No. 38
Ct. No. 6.
AB
(Allowed)

C.R.M. (DB) 2682 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Thanarpara Police Station Case No.98 of 2022 Dated 12.05.2022 under Sections 363/365/302/201 of the Indian Penal Code

In the matter of : **Sohel Sk.**

....Petitioner.

Mr. Amanul Islam,
Mr. Arup Sarkar,
Mr. Sourav MukherjeeFor the Petitioner.

Mr. Bibhaswan Bhattacharya,
Mr. Bikram MitraFor the State.

1. Heard learned Advocates for the parties.
2. Petitioner is in custody for more than two years. He submits there is delay in trial. There is no direct evidence connecting him with the murder.
3. Learned lawyer for the State opposes the prayer for bail.
4. We have considered the materials on record. The case is based on circumstantial evidence. It is contended petitioner was last seen with the victim. That apart, it is also stated he identified the spot from where the body and weapon of offence were recovered. It is argued since the recoveries were made prior to the arrest of the petitioner, subsequent showing of the recovery spot cannot be construed as a "fact discovered" admissible under Section 27 of the Evidence Act. Credibility of the

aforesaid circumstances proposed by the prosecution must be assessed during trial. There is little possibility of trial concluding at an early date. Keeping in mind these facts and the period of detention suffered by the petitioner, we are inclined to allow his prayer for bail.

5. Accordingly, the petitioner, namely, **Sohel Sk.** 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, Tehatta, Nadia, 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 or commit similar offences in future.
6. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)