

61.
Court
No.28

03.09.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2687 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Murutia** Police Station Case **No.68/2019** dated **09.05.2019** under Sections **376** of the Indian Penal Code. Charge-sheet submitted under Sections 376(2)(j)(i) of the Indian Penal Code.

And

In the matter of: - **Subhankar Halder**

Mr. Ashok Das
Mr. Amanul Islam
Mr. Sourav Mukherjee
Ms. Hasi Jana

...petitioner.

Mr. Subrata Roy
Mr. Mujibar Ali Naskar

...for the petitioner.

...for the State.

Dictated by Arijit Banerjee, J.

1. Affidavit of service filed in Court today be kept with the records. In spite of service, nobody appears for the *de facto* complainant/victim.
2. The petitioner says that he has been in custody for five years and three months. He prays for bail primarily on the ground of delay in progress of the trial.
3. While opposing the prayer for bail learned Advocate for the State draws our attention to the material in the case diary. He says that the victim lady is specially-abled. She could not comprehend everything and, therefore, she was unable to record her statement under Section 164 of the Code of Criminal Procedure, 1973. However, there are two

eyewitnesses including the victim girl's mother. We have seen their statements.

4. The prosecution may have a very strong case for convicting the petitioner, we say nothing on merits.
5. However, we cannot lose sight of the paramount importance of a citizen's fundamental right to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India. However strong the case of the prosecution may be, the same would not justify keeping an under-trial in incarceration for an indefinitely long period of time.
6. We see that only one out of 14 charge-sheet named witnesses has been examined. There is little chance of an early conclusion of the trial.
7. Solely on the ground of inordinate delay in progress of the trial, we allow the petitioner's prayer for bail.
8. Accordingly, we direct that the petitioner, namely, **Subhankar Halder** 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 the learned Additional Chief Judicial Magistrate, Tehatta, Nadia, subject to condition that the petitioner 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 and on further condition that the petitioner, while

on bail, shall not enter the jurisdiction of Murutia police station except for the purpose of attending Court proceedings until further orders and shall also furnish the local address where he will be residing to the Officer-in Charge of Murutia Police Station and shall meet the Officer-in-Charge of the jurisdictional police station, where he will be residing, once in every fortnight, until further orders. The petitioner shall not intimidate and/or disturb the victim and her family members in any manner whatsoever.

9. In the event the petitioner fails to adhere to any of the conditions stipulated above 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.
10. The application for bail being CRM (DB) 2687 of 2024 is accordingly disposed of.
11. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)