

24. 08.10.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2726 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 arising out of **Bankura** Police Station Case No. **239/2020** dated **11.12.2020** under Sections **302/201/379/34** of the Indian Penal Code.
And

In the matter of: - **Biraj Mohan @ Totan Duary**

...petitioner.

Mr. Achintya Banerjee
Mr. F. Rahman
Mr. Indu Mouli Banerjee
Mr. Md. Babul Hussain

...for the petitioner.

Ms. Minoti Gomes
Ms. Afreen Begum

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner complains of inordinate delay in progress of trial.
He says that he is in custody for more than three years and 10 months. Only five out of 22 charge-sheet named witnesses have been examined. He renews his prayer for bail on the touchstone of Article 21 of the Constitution of India.
2. Learned State Advocate vehemently opposes the prayer for bail.
He says that this petitioner is the prime accused. There is sufficient incriminating evidence against the petitioner. His bail prayer was rejected earlier.
3. The prosecution may have a very strong case against the petitioner. Nobody stands in the way of the prosecution securing the petitioner's conviction. However, every under-trial has a fundamental right to speedy trial. Such right of the

petitioner is being infringed in the instant case. The fundamental right to personal liberty and speedy trial must override all other considerations. Solely on the ground of delay in progress of the trial and seeing that there is no possibility of an early conclusion of the trial, we feel constrained to enlarge the petitioner on bail.

4. Accordingly, we direct that the petitioner, namely, **Biraj Mohan @ Totan Duary** 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 Chief Judicial Magistrate, Bankura, 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 territorial jurisdiction of Bankura Police Station, except for the purpose of attending Court proceeding and shall furnish his present address, where he will be residing, to the Officer-in-Charge/Inspector-in-Charge of the said Police Station and shall also report to the Officer-in-Charge/Inspector-in-Charge of the jurisdictional Police Station, where he will be presently residing, once in a week, until further orders.
5. 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.

6. The application for bail being CRM (DB) 2726 of 2024 is accordingly disposed of.
7. 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.)

(Apurba Sinha Ray, J.)