

57.
18-11-2024
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 2759 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Namkhana Police Station Case No.152 of 2017 dated 26-12-2017 under Sections 302/201/34 of the Indian Penal Code.

- A n d -

In the matter of : Tumpa Paik

.... Petitioner.

Mr. S. Ganguli,
Mr. S. Shasmal

... For the Petitioner.

Ms. Amita Gaur,
Mr. Arani Bhattacharyya

... For the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews her prayer for bail which was last rejected on December 01, 2020. She says that she is in custody for about 6 years 11 months. The trial is yet to be concluded. On the touchstone of Article 21 of the Constitution of India, she renews her prayer for bail.

2. Learned State advocate says that November 28, 2024, has been fixed for cross-examination of the Investigating Officer, who is the last prosecution witness. All efforts will be made to conclude the trial on an early date.

3. To examine 17 witnesses, the prosecution has taken about 7 years. We do not know whether or not on November 28, 2024, any progress will be made. After that, there has to be examination under Section 313 of the Code of Criminal Procedure. Thereafter, there will be arguments. Nobody can

say with any certainty when the trial would really conclude by delivery of judgment.

4. 6 years 11 months is too long a period of time to keep an under-trial person in judicial custody. If the prosecution has clinching evidence against an accused person, it is all the more necessary that the trial is concluded at an early date so that after conviction of the accused person, he can be punished in accordance with law. Solely on the ground of undue delay in progress of trial and keeping in mind the petitioner's fundamental right under Article 21 of the Constitution of India and also considering that the petitioner is a lady who has a 6-year old son, we are constrained to allow this application for bail.

5. Accordingly, we direct that the petitioner, namely, **Tumpa Paik**, 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 learned Additional Sessions Judge, 2nd Court, Kakdwip, South 24 Parganas. The petitioner shall appear before the learned 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. The petitioner shall remain within the jurisdiction of the local police station, until further orders.

6. In the event the petitioner fails to comply with any of the conditions stipulated above without any justifiable cause, the learned trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

7. The application for bail is, thus, **allowed**.

8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

9. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)