

CRM (DB) 2782 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Berhampore Police Station** Case No. **1505 of 2019** dated **03.12.2019** under Sections **498A/304B/406/494/34** of the Indian Penal Code and Section 4 of the DP Act.

- A n d -

In the matter of : Jakir Sk @ Jakir Hossain @ Saharul @ Raja
.... Petitioner.

Mr. Ali Ahsan Alamgir,
Mrs. Soma Mal,
Ms. Rabia Khatoon,
Ms. June Modak,

... For the Petitioner.

Mr. Debabrata Chatterjee,
Mr. Rajashree Tah,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner renews his prayer for bail which was last rejected on July 12, 2023. He says that he is in custody for about four years and two months. Only 7 out of 19 charge sheet named witnesses have been examined. On the last 12 dates, the witnesses did not turn up before the learned Trial Court. On the ground of inordinate delay in progress of trial, he renews his prayer for bail.

2. Learned State Counsel, while opposing the prayer says that there is clinching evidence against the petitioner. He is the prime accused. There is a dying declaration of the victim where the victim names this petitioner. All efforts will be made to conclude the trial on an early date.

3. The prosecution may have an iron cast case against the petitioner. We do not make any comment on merits. However strong the case may be, the same cannot justify indefinite incarceration of an accused person. Article 21 of the Constitution

of India encompasses a citizen's fundamental right to speedy trial and personal liberty.

4. We see that 12 witnesses are yet to be examined. There is practically no possibility of an early conclusion of the trial. The petitioner has been in custody for a long period of time.

5. Solely on the touchstone of Article 21 of the Constitution of India, without touching the merits of the case, we are constrained to allow the petitioner's prayer for bail.

6. Accordingly, we direct that the petitioner, namely, **Jakir Sk @ Jakir Hossain @ Saharul @ Raja**, 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 Chief Judicial Magistrate, Berhampore, 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 and on further condition that the petitioner shall not leave the jurisdiction of the concerned police station shall meet the officer-in-charge of the concerned police station once in a fortnight until further orders.

7. 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.

8. The application for bail is, accordingly, allowed.

9. 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.)**