

18.11.2024
Item no. 102.
Court No.29.
AB
(Allowed)

CRM (DB) 2896 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 Hogolberia Police Station Case No.148 of 2013 Dated 05.09.2013 under Section 302 of the Indian Penal Code

And

In the matter of : Sridam Biswas

.....Petitioner.

Mr. Asraf Mondalfor the Petitioner.

Ms. Rita Duttafor the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail, which was last rejected in 2014. He says that he is in custody for more than 11 years. Trial is yet to be concluded. On the touchstone of Article 21 of the Constitution of India, he renews his prayer for bail.
2. Learned Counsel for the State opposes the prayer for bail. He says that November 8, 2024, was the date fixed for further examination of witnesses. However, she is not aware what happened on that day. Altogether there are 12 charge sheet named witnesses. There is sufficient incriminating evidence against this petitioner.
3. 11 years is far too long a period of time to detain an under-trial in judicial custody without concluding the

trial. The importance of a person's fundamental right to personal liberty and speedy trial can hardly be overemphasized. Such right must override all other considerations. The prosecution may have an iron-cast case to secure the conviction of the petitioner. Nobody stops the prosecution from doing so. However, that would not justify incarceration of the petitioner for more than 11 years. Further, we notice that the last witness was examined in August, 2023.

4. Solely on the ground of undue delay in progress of the trial, we allow this application for bail.
5. Accordingly, we direct that the petitioner, namely **Sridam Biswas** 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 at Nadia, and on further conditions that he shall not leave the jurisdiction of the concerned Police Station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
6. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)