

09.12.2024
Item no.09.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 3006 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Gobardanga Police Station Case No. 357 of 2022** dated **26.12.2022** under **Sections 302/376/411 of the Indian Penal Code.**

And

In the matter of : Pintu Acharjee.

.....Petitioner.

Mr. Sekhar Kumar Basu, Sr. Adv.,
Dr. Rudra Prasad Motilal,
Mr. Pabitra Biswas,for the Petitioner.

Ms. Sreyashee Biswas,
Ms. Debjani Dasgupta,for the State

Dictated by Apurba Sinha Ray, J.

1. Status report filed by the State, be kept with the records.
2. Learned advocate for the petitioner submits that the petitioner has been languishing in the judicial custody for about 1 year and 11 months and there is no direct piece of evidence to show that he had committed the offence of rape and murder. However, as the investigation is complete and 2 out of 34 chargesheet named witnesses have been examined and they have been declared hostile by the prosecution, the present petitioner is entitled to bail.
3. Learned senior counsel draws attention of this Court to the decision of the Apex Court reported in **(2023)**

1 Supreme Court Cases 83 (Rahul Vs. The State

of Delhi, Ministry of Home Affairs & Anr.) to support his contention that DNA report cannot be sacrosanct. However, as there is very little chance to conclude the trial within a few months, the learned senior counsel prays for bail.

4. Learned counsel for the State opposes the prayer for bail vehemently. According to her, she is also relying on the said judicial decision which shows that DNA evidence is a good piece of evidence in case when the prosecution is relying on circumstantial evidence to conclude the trial against the petitioner. She also places the status report which states that out of 24 witnesses, 10 more witnesses will be examined by the prosecution.
5. We have considered the material on record and also the judicial decision mentioned above. Without entering into the merits of the case, we find that there is no chance of an early conclusion of the trial. It is also found that two prosecution witnesses have been declared hostile. Even if we consider that DNA evidence is a good piece of evidence, we find that all the documentary evidences have been collected by the Investigating Officer and the prosecution is controlling those evidences. Therefore, if we enlarge the petitioner on bail, the prosecution case may not suffer. In view of long incarceration of the present

petitioner, we are inclined to allow the prayer for bail but on certain conditions.

6. Accordingly, we direct that the petitioner, namely, **Pintu Acharjee** 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, Barasat, North 24-Parganas, subject to the conditions that he shall remain within the jurisdiction of the Barasat police station and shall report to the Inspector-in-Charge of the Barasat police station once in a week until further orders.
7. 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 in any manner whatsoever.
8. 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.
9. The application for bail is, accordingly, allowed.
10. 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.)