

47.
28-11-2024
(ct. no.29)
S. De
(Allowed)

CRM (DB) 2948 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Tamluk Police Station Case No. 699 of 2016** dated **25.09.2016** under **Sections 395/397 added with Section 412** of the Indian Penal Code.

And

In the matter of : Rahim Mallick @ Rahim Mallik & Ors.

.....Petitioners.

Mr. Amal Krishna Samanta,for the Petitioners.

Mr. Saryati Datta,
Ms. Ratna Ghosh,for the State.

Dictated by Arijit Banerjee, J.

1. Leave is granted to the learned advocate for the petitioner to correct the cause title of the bail petition.
2. The petitioners say that they are in custody for 8 years and 1 month. Trial is yet to conclude. Solely on the touchstone of Article 21 of the Constitution of India, they pray for bail.
3. Opposing the prayer, learned State advocate says that the trial is at the argument stage. It is on the verge of conclusion. There are sufficient incriminating evidence against the petitioners.
4. We are told that the trial Court is vacant. We also see that other accused persons have been granted bail. In any event, 8 years is far too long a period of time to keep an undertrial in incarceration. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to enlarge the petitioners on bail.

5. Accordingly, we direct that the petitioners, namely, **Rahim Mallick @ Rahim Mallik**, Hanif Sk @ Raju and Joydeb Das shall be released on bail upon furnishing a bond of Rs. 10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Tamluk, Purba Medinipur subject to the condition that they shall not leave the jurisdiction of the police station and shall appear before Officer-in-Charge of the concerned police station once in a fortnight until further orders.
6. The petitioners 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.
7. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' 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.)