

CRM (DB) 2956 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 **Saktipur Police Station** Case No. **237 of 2015** dated **06.11.2015** under Sections **326/307/302** of the Indian Penal Code and Sections 3/4 of the Explosive Substances Act.

- A n d -

In the matter of : Asmat Sk

.... Petitioner.

Mr. Milon Mukherjee,
Mr. Ali Ahasan Alamgir,
Ms. Soma Mal,
Ms. Robia Khatoon,

... For the Petitioner.

Mr. R. R. Chowdhury,
Mr. Rajesh Jana,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Status reports filed by the State as well as the petitioner be kept with the records.

2. From the status report filed by the State, it appears that 15 out of 23 charge sheet named witnesses have been examined till date. We are also told that the last witness examination was in January, 2023. The petitioner is in custody for close to nine years. He renews his prayer for bail on the anvil of Article 21 of the Constitution of India.

3. Learned State Counsel opposes the bail prayer and says that the petitioner is the sole accused. The charge is of murder. There are eye witnesses. Bail should not be granted.

4. The prosecution may have an iron cast case to secure conviction of the petitioner. That would not justify keeping the petitioner in judicial custody for an indefinite period of time without taking the trial to its logical conclusion. If the prosecution has

clinching evidence against the petitioner, it is all the more important that the trial should have concluded on an early date so that if found guilty, the petitioner could have been punished appropriately. Keeping an under-trial in judicial custody for a very long period of time, without concluding the trial amounts to pre-trial conviction which is not known to our criminal jurisprudence.

5. Without touching the merits of the case, solely on the touchstone of Article 21 of the Constitution of India which guarantees a citizen's fundamental right to personal liberty and speedy trial and also noting that several witnesses have turned hostile, we feel constrained to enlarge the petitioner on bail.

6. Accordingly, we direct that the petitioner, namely, **Asmat Sk**, 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, Murshidabad 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 while on bail shall remain within the jurisdiction of the concerned Police Station and 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.)