

29.11.2024
Item no. 15.
Court No.29.
AB
(Allowed)

CRM (DB) 3016 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 Ghola Police Station Case No.319 of 2020 Dated 08.08.2020 under Section 376D of the Indian Penal Code read with Section 6/10 of the POCSO Act

And

In the matter of : Rahul Saha @ Subir

.....Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Sahafor the Petitioner.

Ms. Subhasree Patel,
Ms. Chandreyi Duttafor the State.

Mr. Moyukh Mukherjee,
Mr. Abhijit Singhfor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for more than four years and three months. Only the first prosecution witness has been examined. There are 14 charge sheet named witnesses. He prays for bail on the touchstone of Article 21 of the Constitution of India.
2. Learned State Advocate and learned Advocate for the defacto complainant seriously oppose the prayer for bail. With reference to the status report filed by the State, they argued that the defence has been taking time repeatedly before the learned Trial Court.

3. We have perused the records. It cannot be said that the defence alone is responsible for the delay in progress of the trial. The prosecution has examined the first witness over a period between February, 2023 till October, 2023, on three dates.
4. Be that as it may, four years three months is far too long a period of time to keep an under-trial in incarceration, particularly when the accused person is not alone responsible for the delay in progress of the trial.
5. Accordingly, without touching the merits of the case and solely on the ground of prolonged incarceration of the petitioner, coupled with the insufficient progress in trial, we feel impelled to grant bail to the petitioner.
6. Accordingly, we direct that the petitioner, namely **RAHUL SAHA @ SUBIR** 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, Barrackpore, and on further conditions that he shall remain within the jurisdiction of the Titagarh Police Station and shall report to the Officer-in-Charge of that concerned police station once in a fortnight 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 and/or commit any cognizable offence 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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)