

CRM (DB) 3089 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 **Raina Police Station** Case No. **292 of 2021** dated **23.10.2021** under Sections **302/307/120B/34** of the Indian Penal Code and Sections 25/27 of the Arms Act.

- A n d -

In the matter of : Md. Janishar Alam alias Ricky

.... Petitioner.

Mr. Tamal Singha Roy,

... for the petitioner.

Mr. Arik Ghatak,
Mr. S. Chowdhury,

... For the defacto complainant.

Mr. Rudradipta Nandi,
Ms. S. Saha,

... for the State.

Dictated by Partha Sarathi Sen, J:-

1. At the very outset learned Advocate for the petitioner draws our attention to the order dated 02.09.2024 passed in CRM (DB) 2187 of 2024 by a coordinate bench whereby and whereunder one co-accused person was enlarged on bail basically on the ground of long detention as well as slow progress in trial.

2. It is submitted on behalf of the petitioner that the petitioner may be enlarged on bail on similar ground that is considering the long detention of the petitioner and his right to get speedy trial has been harassed due to slow progress in the trial.

3. Learned State Advocate, however, opposes such contention. He submits that the petitioner is the principal accused and in course of his submission he draws our attention to the statement of an injured witness viz-a-viz the T.I. parade in which the petitioner was identified by the said witness.

4. It is further contended that the petitioner's right to personal liberty as enshrined under Article 21 of the Constitution of India may not be construed as unfettered.

5. We have meticulously gone through the materials as placed before us. We have also gone through the order dated 02.09.2024 passed in CRM (DB) 2187 of 2024 by the Coordinate Bench. Admittedly, the present petitioner is in custody for a considerable period of time which definitely affects his right to personal liberty and speedy trial.

6. However, as rightly argued by learned Advocate for the State that such right cannot be construed as unfettered especially when there are sufficient incriminating materials to take a *prima facie* view that the petitioner is actively involved in the alleged crime.

7. We have noticed sufficient incriminating materials as against the present petitioner as well as his role in the alleged crime. We are constrained to hold that the present petitioner does not stand on the same footing with the accused enlarged on bail by the order dated 02.09.2024. Considering the entire circumstances, we are not inclined to enlarge the petitioner on bail.

8. CRM (DB) 3089 of 2024 is, thus, dismissed.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)