

25.11.2024
Item no. 08.
Court No.29.
AB
(Allowed)

CRM (DB) 3098 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 Serampore Police Station Case No.409 of 2020 Dated 15.12.2020 under Section 363/364A/365/25 of the Indian Penal Code read with Sections 25/27 of the Arms Act

And

In the matter of : Uttam Singh & Anr.

.....Petitioners.

Mr. Angshuman Chakraborty,
Ms. Madhurima Basufor the Petitioners.

Ms. Z. N. Khan,
Ms. Suveni Banerjeefor the State.

Dictated by Arijit Banerjee, J.

1. The petitioners renew their prayer for bail, which was last rejected on October 16, 2023. The petitioner no.1 is in custody for three years and ten months. The petitioner no.2 is in custody for three years and eleven months. They say that trial has not begun. They renew their prayer for bail on the touchstone of Article 21 of the Constitution of India.
2. Strongly opposing the prayer for bail, learned State Counsel points out that there have been several rejections of the petitioners' prayer for bail. They are involved in a most heinous crime. One of the reasons for the trial not yet starting is that the defacto complainant committed suicide.

3. However heinous or grave an alleged crime be, it is now settled law that an under-trial cannot be kept incarcerated for an indefinite period of time without taking the trial to its logical conclusion. We are told that charge sheet was filed on February 28, 2021. Charge was framed on February 7, 2024, i.e. almost after three years. Witness action has not yet begun. There are ten charge sheet named witnesses. There is practically no possibility of an early conclusion of the trial. Further, the whereabouts of C.S.W. 1 and C.S.W. 3 were unknown for a long time.
4. Without touching the merits of the case, solely on the ground of inordinate delay in progress of the trial, coupled with long incarceration of the petitioners in judicial custody, we feel constrained to allow the petitioners' prayer for bail.
5. Accordingly, we direct that the petitioners, namely **Uttam Singh** and **Noorbox Sk. @ Bhola Sk.** 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, Serampore, and on further conditions that they shall not leave the jurisdiction of the Hooghly District and shall report to the 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 and/or commit any cognizable offence 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.

(Arijit Banerjee, J.)

(Subhendu Samanta, J.)