

08.10.2024
Item no. 36.
Court No.28.
AB
(Allowed)

CRM (DB) 3123 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 Tehatta Police Station Case No.621 of 2015 Dated 1.12.2015 under Section 302/120B of the Indian Penal Code read with Sections 25/27 of the Arms Act

And

In the matter of : Ganesh Halder Petitioner.

Mr. B. Bhattacharya
Mr. Asraf Mondal for the Petitioner.

Ms. Amita Gour,
Md. Ezaz Akter for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner is in custody for 8 years and 8 months. This is shocking. Only 7 out of 18 witnesses have been examined. The petitioner renews his prayer for bail which was lastly rejected on 26.11.2019 when a Coordinate Bench had directed the trial to be concluded within 1 year from the next date fixed for recording evidence.
2. We, however, see that the trial is pending and there is little possibility of the trial concluding at an early date.
3. Whatever be the strength of the prosecution case, an under trial cannot be kept in incarceration for an indefinite period of time without bringing the trial to a

conclusion. Article 21 of the Constitution stares at our face. The fundamental right of a citizen to personal liberty and speedy trial is of utmost importance.

4. Solely on the ground of inordinate delay in the progress of trial, we enlarge the petitioner on bail.
5. Accordingly, we direct that the petitioner, namely **Ganesh Halder** 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, Tehatta, Nadia and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer in charge of the concerned police station once in a fortnight until further orders.
6. 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.
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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)