

53. 23.12.2024
Court
No.29 (Pritam)
(Rejected)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3327 of 2024

In Re: - An application of bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of: - **Md. Mahtab Alam.**

.....petitioner.

Mr. Joydeep Biswas,
Mr. Kaushik Ghosh

...for the petitioner.

Mr. Rudradipta Nandy, Ld. APP.,
Ms. Minoti Gomes,
Mr. Sharequl Haque

....for the State.

Dictated by Partha Sarathi Sen, J.

1. In support of the application for bail, learned advocate for the petitioner submits before this court that the present accused-petitioner is languishing in J/C for a period of three years, one month and seven days. It is submitted further that the present accused-petitioner is better circumstanced than the accused person, namely, *Somnath Mondal*, who has been enlarged on bail on September 02, 2024 in *CRM (DB) 2187 of 2024* by another co-ordinate bench of this court. It is further submitted that the present accused petitioner has got no direct involvement in the alleged crime and considering such circumstances and also considering that as on this day, the progress of the trial is

exceptionally slow, the instant application for bail may be considered favourably. It is submitted that the present accused-petitioner is being deprived of his right to get speedy trial.

2. While opposing the prayer for bail, Mr. Nandy, learned advocate for the State draws our attention to the seizure list dated November 24, 2021 *vis-à-vis* the ballistic report dated November 13, 2022. It is submitted further on behalf of the State that from the said report, it would reveal that the fingerprint of the present accused-petitioner is found at the P.O and the incriminating material (firearm) was recovered as per showing of the present accused-petitioner and on forensic examination, the said firearm duly matches with the blank cartridge, which was recovered from the P.O.
3. In his next fold of submission before this court it is contended that on conjoint perusal of the statement of a witness and the result of the T.I. Parade by the said witness it would reveal that the involvement of the present accused-petitioner in the alleged crime is *prima facie* prominent.
4. On due consideration of the materials placed before this court, it appears to this court that *prima facie* materials have been placed to substantiate that the fingerprint of the present accused-petitioner was found at the P.O. The firearm which was recovered as per showing of the present accused-petitioner and the ballistic report conjointly indicate the possession of the said firearm of the present accused-petitioner at the time of the alleged offence on the relevant day and hour.

5. Considering the availability of the sufficient incriminating materials, we are, thus, of considered view that the provision of Article 21 of the Constitution cannot be said to be invoked in the present case in favour of the petitioner since right to liberty and/or right to get speedy trial is not unfettered, especially when *prima facie* involvement of the present accused-petitioner in the alleged crime is prominent.
6. In view of the discussion made hereinabove, we are of the considered view that the present accused-petitioner is not successful in making out a case for obtaining an order for bail.
7. Accordingly, prayer for bail is **rejected**.
8. Learned advocate for the *de-facto* complainant opposes the prayer for bail.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)