

04. 23.12.2024  
Court  
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3385 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Thanarpara** Police Station Case **No.163/2016** dated **11.12.2016** under Sections **498A/494/326/302/307/34** of the Indian Penal Code.

And

In the matter of: - **Parmila Mondal @ Bibi @ Parvina Bibi @  
Promila Bibi @ Parimola Bibi & Anr.**

...petitioners.

Mr. Bibaswan Bhattacharyya  
Mr. Asraf Mandal

...for the petitioners.

Mr. Rudradipta Nandy, Ld. APP  
Ms. Rituparna Ghosh  
Mr. Santanu Talukdar

...for the State.

**Dictated by Arijit Banerjee, J.**

1. Report filed by the State be kept with the records.
2. On October 8, 2024, it was categorically stated on behalf of the State that the last prosecution witness was scheduled to be examined on November 8, 2024. Accordingly, we had refused the petitioners' prayer for bail on that date and had called for a status report.
3. Today, a status report is filed. We find there-from that 10 out of 13 prosecution witnesses have been examined. Therefore, the statement that was made on behalf of the State on October 8, 2024, was a misstatement. That

statement misled this Court. This is very unfortunate. We expect learned Counsel for the State to make statements with responsibility after verifying the veracity thereof.

4. Learned Counsel for the petitioners also points out that the prosecution has filed an application under Section 311 of the Code of Criminal Procedure, 1973, before the learned Trial Court for examination of three more witnesses. In other words, six more prosecution witnesses will be examined in future.
5. The petitioners are in custody for eight years. The fundamental right of an under-trial to speedy justice and personal liberty as enshrined in Article 21 of the Constitution of India can hardly be over emphasized. Such right must ordinarily override all other conditions. The prosecution may have the strongest possible case against the petitioner. Nobody stands in the way of the prosecution securing conviction of the petitioner. However strong a case the prosecution may have, that will not justify indefinite incarceration of an under-trial.
6. Without touching the merits of the case, solely on the basis of prolonged detention of the petitioners in judicial custody and seeing that the trial may continue for some time more, we feel constrained to allow the petitioners' prayer for bail.
7. Accordingly, we direct that the petitioners, namely, **1. Parmila Mondal @ Bibi @ Parvina Bibi @ Promila Bibi @ Parimola Bibi, 2. Istehar & Kalu Mandal** shall be released

on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each, 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, subject to condition that the petitioners shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

8. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
9. The application for bail being CRM (DB) 3385 of 2024 is accordingly disposed of.
10. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

**(Arijit Banerjee, J.)**

**(Partha Sarathi Sen, J.)**