

02.01.2024  
Sl. No.22  
**akd**  
[ALLOWED]

**C. R. M. (DB) 4783 of 2023**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 15.12.2023 in connection with West Port Police Station Case No.313 of 2017 dated 27.12.2017 under Sections 394/397 of the Indian Penal Code. (C.G.R. Case No.5227 of 2017)

And

In Re: ***Md. Faijan @ Md. Faizan Khan @ Md. Faizan***  
... .. Petitioner

Mr. Antarikhya Basu  
Ms. Madhumita Basak

... .. for the petitioner

Mr. Suman De

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about five years and nine months. It is further submitted there is inordinate delay in trial. In spite of direction given by this court in CRM (DB) 1082 of 2023 to conclude trial within six months, trial has not concluded. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits defence had sought adjournment for cross-examination of witnesses. In spite of non-cooperation on the part of the defence, 21 witnesses have already been examined.
3. We have considered the materials on record. Petitioner is in custody for five years and nine months. Offences, even if proved, would not attract mandatory life imprisonment. With regard to the observation that defence had sought adjournment for cross-examination of witnesses on a number of occasions, we have gone through the order sheets annexed to the application. We note on certain occasions prosecution witnesses were absent and even if present could not be examined due to absence of the presiding officer.

Defence cannot be held responsible for such delay. On other occasions i.e. on 02.09.2023, 04.09.2023, 05.09.2023, 06.09.2023 and 11.09.2023, defence had cross-examined the witnesses on the very day they were examined in chief.

4. In view of the aforesaid circumstances, we are of the opinion progress in trial had not been impleaded by the defence so as to deny the petitioner bail on the ground of delay in trial. Accordingly, we are of the opinion further detention of the accused/petitioner is not necessary.
5. Therefore, the accused/petitioner, namely ***Md. Faijan @ Md. Faizan Khan @ Md. Faizan***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore, South 24-Parganas subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall remain within the district of South 24-Parganas and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge, West Port Police Station once in a week until further orders.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

