

09.01.2024.
31.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 4782 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kultali P.S. Case No.49 of 2020 dated 24.01.2020 under Sections 302/201/120B/115/34 of the Indian Penal Code.

In the matter of : **Mizanur Mondal @ Mijanur Mondal.**

.... Petitioner.

Mr. Sourav Chatterjee,
Mr. Joy Chakraborty,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Imran Ali,
Mr. Sujoy Sarkar.

...for the State.

1. Petitioner is in custody for more than three years. He contends there is no direct evidence connecting him with the crime. Though he is in custody for more than three years, no prosecution witness has been examined. Accordingly, he prays for bail.

2. Learned Advocate for State has submitted report disclosing the reason for delay.

3. We have considered the materials on record. Case is based on circumstantial evidence. Primary circumstance against the petitioner is that a torn pocket from his jacket was recovered from the place of occurrence. It is to be decided during trial whether the aforesaid circumstance is clinching to establish his guilt or not. That apart, petitioner is in custody for more than three years and no witness is examined. Explanation offered by the prosecution that trial was stalled as the FSL report with regard to the torn pocket was awaited is

unconvincing. Nothing stood in the way of the prosecution to examine other witnesses, if they chose to do so.

4. Under such circumstances, we are of the opinion further detention of the petitioner is unwarranted and he may be released on bail.

5. Accordingly, the petitioner viz., **Mizanur Mondal @ Mijanur Mondal** 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, Baruipur, South 24-Paraganas subject to condition that he 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.

6. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)