

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

12.04.2024

Court No.01
rpan /36

CRM (DB) 156 of 2024

In Re:- An application for bail under section 439 of the
Code of Criminal Procedure;

And

In Re: Sujan Rai

- Petitioner.

Mr. Biswarup Roy,

Ms. Supriya Debnath

.... for the Petitioner.

Mr. A. S. Chakraborty, Ld. APP

Mr. Ujjwal Luksom,

Mr. Subhasis Misra

...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Bhaktinagar Police Station Case No.265 of 2020 dated 10.04.2020 under Sections 302/394/34 of the Indian Penal Code.

Mr. Roy, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody since 10th April, 2020 and there is no possibility towards conclusion of the trial in the near future inasmuch as though the charges have been framed, not even a single witness, out of a total of 19 witnesses, has been examined. The petitioner had been roped in on the basis of mere suspicion and the entire case is based upon the circumstantial evidence. A co-accused person, similarly situated with the petitioner, has already been granted bail by a co-ordinate Bench of this Court observing *inter alia*

that '*whether the recovery of the phone from another person would connect the petitioner to the crime may be assessed during trial*'. The earlier application of the petitioner was rejected way back on 3rd December, 2021 and even thereafter, there had been no substantial progress in the trial.

Mr. Misra, learned advocate appearing for the State, however, disputes the contention of the petitioner and submits that the statements of the witnesses and other materials on record would clearly reveal the direct involvement of the petitioner in the alleged offence. The delay which has occurred is not solely attributable to the State.

We have heard the learned advocates appearing for the respective parties. Perused the materials on record and assessed the role of the petitioner. Upon such cumulative assessment, *prima facie*, we find that the petitioner is similarly situated with the other co-accused person, namely, Krishna Barman. The said co-accused has already been granted bail by a co-ordinate Bench of this Court. Considering the nature of allegations, the manner in which the offence has taken place, the extent of complicity of the petitioner in the alleged offence and in the absence of contemporaneous document to show that the petitioner may wield influence over the witnesses, we are of the opinion that his further detention is not necessary, moreso when deprivation of personal liberty without ensuring speedy

trial would not be in consonance with the right guaranteed under Article 21 of the Constitution of India.

Accordingly, we direct that the petitioner, namely, **Sujan Rai** shall 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 Chief Judicial Magistrate, Jalpaiguri with a further conditions that he shall not leave the jurisdiction of the Bhaktinagar Police Station, save and except for attending the learned trial court on all the dates as fixed for hearing and shall meet with the Inspector-in-Charge, Bhaktinagar Police Station once a fortnight until further orders.

It is further directed that the petitioner shall not influence the witnesses and/or tamper with the evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel his bail without any further reference to this Court.

With the above observations and direction, the application for bail, being CRM (DB) 156 of 2024, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.) (Tapabrata Chakraborty, J.)