

75. 08.11.2024
Court
No.1 (Tanmoy)

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 512 of 2024

In Re: - An application for bail under 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Mathabhanga** Police Station Case No. **95/2019** dated **04.03.2019** under Sections **498A/302** of the Indian Penal Code, 1860.

And

In the matter of: - **Mintu Barman**

...petitioner.

Mr. Bikash Singha
Mr. Chandan Roy

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Dr. Arjun Chowdhury

...for the State.

Dictated by Arijit Banerjee, J.

1. Report filed by the State be kept with the records.
2. The petitioner says that he is in custody for more than five years and eight months. 17 out of 28 charge-sheet named witnesses have been examined. He renews his prayer for bail on the ground of delay in progress of trial.
3. While opposing the prayer for bail learned Advocate for the State says that the charge is under Sections 498A and 302 of the Indian Penal Code. The petitioner is the husband of the victim. There is sufficient incriminating evidence against the petitioner. All efforts will be made to conclude the trial on an early date.

4. The prosecution may have an excellent case to secure the petitioner's conviction. Nobody stands in the way of the prosecution doing so. However, an under-trial cannot be kept incarcerated for an indefinitely long period of time. That would be contrary to the principles enshrined in Article 21 of the Constitution of India.
5. At the pace the trial has progressed so far, it may take a few years more for the trial to conclude. Hence, solely on the ground of delay in progress of trial affecting the fundamental right of the petitioner under Article 21 of the Constitution of India, we are inclined to allow his prayer for bail.
6. Accordingly, we direct that the petitioner, namely, **Mintu Barman** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, Mathabhanga, Coochbehar, subject to condition that the petitioner 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.
7. In the event the petitioner fails to adhere to any of the conditions stipulated above 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.

8. The application for bail being CRM (DB) 512 of 2024 is accordingly disposed of.
9. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all necessary formalities.

(Arijit Banerjee, J.)

(Biswaroop Chowdhury, J.)