

47.
04-03-2025
(ct. no.29)
S. De
(Allowed)

CRM (DB) 195 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Kulpi Police Station case no. 256 of 2019** dated **01.09.2019** under **Sections 363 / 365 / 468 / 471 / 372 / 373 / 364 / 302 / 201/120B/34** of the Indian Penal Code.

And

In the matter of : Md. Nur Hossain Molla.

.....Petitioner.

Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee,

.....for the Petitioner.

Ms. Amita Gaur,
Mr. Bikram Mitra,

.....for the State.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State be kept with the records.
2. We find that on various dates, the Presiding Officer was on leave. On several other dates, the witness was not present and also the Special Public Prosecutor was not available. It cannot be said that the delay in progress of trial can be attributed to any extent to the petitioner.
3. The petitioner is in custody for almost five and half years. We see that while rejecting his prayer for bail on April 22, 2024, in CRM (DB) 1023 of 2024, a co-ordinate Bench had recorded the assurance of learned APP that trial shall be completed within six months from the next date fixed for recording of evidence subject to co-operation by the defence and other systemic delays. However, we are told that nine witnesses have been examined till date. 21 more witnesses are proposed to be examined by the prosecution. This was

exactly the status on April 22, 2024, when the petitioner's prayer for bail was rejected. Hence, after April 22, 2024, there has been zero progress in the trial.

4. In view of the aforesaid and in view of very long custodial detention of the petitioner, solely on the touchstone of Article 21 of the Constitution of India and without touching the merits of the case, we feel constrained to enlarge the petitioner on bail.
5. Accordingly, we direct that the petitioner, namely, **Md. Nur Hossain Molla**, 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, Diamond Harbour, 24-Parganas (South) subject to the condition that he shall not leave the jurisdiction of Kulpi Police Station except for the purpose of attending Court proceedings and shall meet the Officer-in-Charge of Kulpi Police Station once in every week until further orders.
6. The petitioner shall appear before the trial Court on every date of hearing until further orders 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 justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

8. The application for bail is, accordingly, allowed.
9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)