

CRM (DB) 241 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Jalangi Police Station** Case No. **1068 of 2012** dated **30.12.2012** under Sections **302/34** of the Indian Penal Code.

- A n d -

In the matter of : Akbar Mondal

.... Petitioner.

Mr. Jissan Iqbal Hossain,

... For the Petitioner.

Mrs. Subhasree Patel,

Mr. Ronit Mukherjee,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner renews his prayer for bail which was rejected earlier on July 2, 2024 in CRM (DB) 1774 of 2024. The order rejecting his bail is reproduced herein below:-

"The petitioner says that he is in custody for about one year and one month. A co-accused person, who was convicted, has preferred an appeal. Insofar as the petitioner is concerned, the trial cannot be proceeded with, since in connection with the appeal of the co-accused, the LCR is lying in the High Court. He says that he is 80 years of age. He should be enlarged on bail.

Learned Advocate for the State opposes the prayer for bail. She points out that the petitioner was absconding for eleven years. There is every chance that he may again disappear if he is enlarged on bail. He stands on the same footing as the co-accused person who has suffered conviction.

Having considered the facts and circumstances of the case and that earlier the petitioner's prayer has already been rejected once by a co-ordinate bench and there is real possibility of the petitioner's absconsion, we are not inclined to grant bail to the petitioner, at this stage. Accordingly, the prayer for bail is rejected.

The application being CRM (DB) 1774 of 2024 is accordingly dismissed.

However, we do not see why the trial as against the petitioner cannot be proceeded with by the learned Trial Court in view of the fact that all exhibits are already on record and so are depositions of the prosecution witnesses. The petitioner will be at liberty to cross-examine such prosecution witnesses, if so advised."

2. The petitioner now says that since then the records are lying in this court in connection with an appeal preferred by a co-accused person who has suffered conviction, the learned Trial Court cannot proceed with the trial in so far as the petitioner is concerned as would appear from the order dated September 30, 2024 recorded by the learned Trial Court. We deem it proper to quote the relevant portion of that order.

"On perusal of the record, I find that the Hon'ble Court by virtue of solemn order dated 02.07.2024, was pleased to direct this Court to proceed with the trial in view of the fact that all exhibits are already on record and so are depositions of the prosecution witnesses. On perusal of the skeleton record, I find that the original case record is lying at Hon'ble High Court containing the depositions of all the prosecution witnesses and also the exhibits in connection with Appeal preferred by one victim. In the absence of evidence-on-record, this Court cannot proceed with the trial of petitioner-accused Akbar Mondal only on the basis of skeleton record.

Learned PP in-charge has fairly submitted before this Court that after passing of the judgment in connection with SSL No. 253 of 2013, the conducting PP in-charge had already handed over the case diary to the concerned Jalangi P.S and CD is not lying with him at present and in absence of such, he expressed his inability to frame charge against the present accused person."

3. We, therefore, see that there is no real possibility of an early conclusion of the trial as against this petitioner who is in custody for one year nine months. He is 81 years old.

4. Considering the period of detention, his age and there being practically no possibility of an early conclusion of the trial, we

are inclined to enlarge the petitioner on bail but on stringent conditions.

5. Accordingly, we direct that the petitioner, namely, **Akbar 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 C.J.M, Berhampore, Murshidabad 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 and on further condition that the petitioner while on bail shall remain within the jurisdiction of the Jalangi police station except for the purpose of attending court proceedings and shall meet the I.C of the said police station once in a week until further orders.

6. 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.

7. The application for bail is, accordingly, allowed.

8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Om Narayan Rai, J.)**

(**Arijit Banerjee, J.)**