

27.03.2025

Item no.43.

Court No.29.

S. De

(Allowed)

CRM (DB) No. 351 of 2025

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Joynagar Police Station Case No. 945 of 2018** dated **29.09.2018** under **Sections 302/34** of the Indian Penal Code & **Section 25/27** of the Arms Act.

And

In the matter of : Shayed Ali Laskar @ Sahid. ...Petitioner.

Mr. Sabyasachi Chatterjee,

Mr. Badrul Karim,

Mr. Dipankar Das,

Mr. Aritra Ghosh,

Ms. Monalisha Sinha,

.....for the Petitioner.

Ms. Amita Gaur,

Ms. Sreetama Das,

.....for the State.

Mr. Sujoy Sarkar, ...for the de facto complainant.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State, be kept with the records.
2. The petitioner complains that he is in custody for more than 6 years and 2 months. After 10 witnesses had already been examined and discharged, certain absconding accused persons were arrested and produced before the learned Trial Court. On August 29, 2024, learned Trial Judge observed that *“the trial of this case has to be reverted back from where it began as soon as the accused Sarafat Gazi is produced before this court and tagged with this record.”* The petitioner says that therefore, the trial has to begin de novo in respect of that accused Sarafat Gazi. This will cause further delay. On the touchstone of Article 21 of the Constitution of India, the petitioner prays for bail.

3. Learned State advocate and learned advocate for the de facto complainant strongly oppose the prayer. They say that this petitioner shot the victim. There is clinching evidence against the petitioner. Bail should not be granted. He also has criminal antecedents.
4. We see that the petitioner is in custody for a very long period of time. From the status report, we see that there is very little possibility of an early conclusion of the trial. In so far as antecedents are concerned, the petitioner appears to be on bail in the other cases. No order of conviction of the petitioner in any criminal case has been placed before us.
5. We have said on many occasions that however strong the prosecution case may be, the same would not justify incarceration of an accused person for an unreasonably long period of time without concluding the trial. Ordinarily, a citizen's fundamental right to personal liberty and speedy trial is paramount and must override all other considerations. Nobody stands in the way of the prosecution securing conviction of the petitioner and punishing him, in accordance with law. However, 6 years 2 months is far too long a period of time to detain an undertrial accused in judicial custody. There is also no possibility of an early conclusion of the trial. Hence, without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we are constrained to grant bail to the petitioner.

6. Accordingly, we direct that the petitioner, namely, **Shayed Ali Laskar @ Sahid** 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 District & Sessions Judge, First Track Court-, Baruipur, South 24-Parganas, subject to the condition that the petitioner shall not enter the districts of 24-Parganas (South) and 24-Parganas (North), except for the purpose of attending Court proceedings, and shall also furnish the address where he will be residing to the Inspector-in-Charge in whose jurisdiction he will be residing and also to the learned Trial Court and shall appear before such Inspector-in-Charge/Officer-in-Charge once in a week, until further orders.
7. 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.
8. 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.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)