

17.03.2025
Item no.98.
Court No.29.
S. De

CRM (DB) No. 336 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.

And

In the matter of : Arnab Sarkar @ Guddu. ...Petitioner.

Mr. Sandip Chakraborty,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Mr. Kaustav Das,for the Petitioner.

Ms. Amita Gaur,
Ms. Suveni Banerjee,for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected earlier on three occasions, lastly on April 29, 2024. We see that once the petitioner had approached the learned Supreme Court by filing Special Leave Petition (Criminal) Diary No. 40165/2023. By an order dated October 20, 2023, the Hon'ble Court was pleased to dismiss the Special Leave Petition, clarifying that "*in case of change in circumstances or if the trial gets prolonged due to reasons not attributable to the petitioner or co-accused, it will be open to the petitioner to file a fresh application for bail/suspension of sentence.*"
2. The petitioner says that after that order was passed by the Hon'ble Supreme Court, the trial has not progressed appreciably. Till date only 1 out of 27 witness has been examined. He is in custody for 3 years and 9 months. On the touchstone of Article 21 of the Constitution of India, he should be granted bail.

3. Learned State counsel tells us 2 out of 27 witnesses have been examined by the prosecution. The delay is due to the absconsion of co-accused persons including the petitioner's father. She points out that the Hon'ble Supreme Court granted liberty to the petitioner to renew his prayer for bail on the ground of delay if the delay is not attributable to the petitioner or co-accused persons. Since the trial has been delayed due to the absconsion of the co-accused persons, the petitioner's renewal prayer should not be entertained.
4. We tend to agree with learned State advocate. We further see from the case diary that there are sufficient incriminating material against this petitioner. The charge is of murder. If convicted, the petitioner has to serve mandatory life sentence.
5. On an overall assessment of the material-on-record and the possible extent of complicity of the petitioner in the alleged crime of murder and noting that the delay in progress of trial is not attributable to the prosecution but to the co-accused persons who are still absconding and who are relatives of the petitioner, we are not inclined to entertain the prayer for bail of the petitioner.
6. CRM (DB) 336 of 2025 is dismissed.
7. However, considering the period of detention of the petitioner, we direct the learned Trial Court to take immediate steps for splitting up the trial following due process of law and to ensure that the trial is expedited to the fullest extent possible in so far as this petitioner is concerned and is concluded on an early date.

8. Let this order be communicated by the parties to the learned Trial Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)