

24.03.2025
Item no.33.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 401 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 **Panskura Police Station Case No. 495 of 2019** dated **08.10.2019** under **Sections 302/120B** of the Indian Penal Code read with Sections **25/27 of the Arms Act.**

And

In the matter of : Mobarak Khan @ Mobarak Karim Khan.

...Petitioner.

Mr. Ayan Basu,
Mr. Sourav Bera,
Mr. Soumit Routh,

...for the Petitioner.

Mr. Saryati Datta,
Ms. Dona Sanyal,

...for the State.

Ms. Soumya Nag,
Ms. Aditya Tiwari,

...for the de facto complainant.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for more than 5 years.
The principal accused being one Anisur Rahaman was granted bail by the Hon'ble Supreme Court on January 3, 2025, on the ground of very long detention and inadequate progress in the trial. He says that he stands on the same footing as Anisur Rahaman in so far as the period of detention and status of the trial are concerned.
2. Learned State counsel and learned counsel for the victim strongly oppose the prayer for bail.
3. We find that this petitioner is also in custody for about 5 years and 5 months. 75 out of 114 chargesheet witnesses have been examined. An early conclusion of the trial seems improbable. Without touching the merits of the case and solely on the

touchstone of Article 21 of the Constitution of India, we allow the petitioner's prayer for bail.

4. Accordingly, we direct that the petitioner, namely, **Mobarak Khan @ Mobarak Karim Khan** 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 Chief Judge, City Sessions Court, Calcutta subject to the condition that the petitioner shall remain within the jurisdiction of the Hare Street police station except for the purpose of attending court proceedings and shall meet the Inspector-in-Charge/Officer-in-Charge of the Hare Street police station once in a week, until further orders and on further conditions that the petitioner will remain confined to the city of Kolkata after his release on bail and shall mark the attendance once in a week at appropriate Police Station as stated above and on further condition that if it is found that the trial is being delayed at the instance of the petitioner due to either his non-cooperation or his advocate indulging in unnecessary long cross-examination, the bail will be liable to be cancelled.
5. Apart from the aforesaid conditions, usual conditions shall be imposed which will ensure that the petitioner does not tamper with the prosecution evidence and prosecution witnesses.
6. The State will have to cooperate with the Trial Court by ensuring the presence of all official witnesses.
7. We direct the State to render all possible cooperation to the Special Public Prosecutor by ensuring that all official witnesses remain present before the Court. We also direct the State to

ensure that if any witness needs the protection, he/she shall be provided with adequate protection.

8. In the event the petitioner commits any breach of the terms and conditions, it will be always open for the respondents to apply to this Court for cancellation of bail.
9. 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.
10. 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.
11. The application for bail is, accordingly, allowed.
12. 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.)