

21.04.2025

Item No.23

Ct.No.34

rc.

Allowed

C.R.M. (DB) 942 of 2025

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Park Street Police Station Case No. 206 of 2016 dated 13.08.2016 under Sections 302/201/34 of the Indian Penal Code.

And

In Re : **Syed Rizwan Ali @ Sayed Rezwan Ali**
... Petitioner

Mr. Jaydeep Biswas
Mr. Rishav Singh
Mr. Soumalya Dutta ... for the Petitioner

Mr. Debasish Roy
Mr. B. Basu
Mr. K. Bapuli ... For the State

Heard learned counsels for the parties.

The petitioner is in custody for little less than nine years and prays for bail solely on the touchstone of Article 21 of the Constitution of India.

Learned counsel for the petitioners places reliance on the authority in Sheikh Javed Iqbal Vs. State of Uttar Pradesh reported in (2024) 8 Supreme Court Cases, 293 wherein the Hon'ble Supreme Court has observed that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional Court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused

undertrial under Article 21 of the Constitution of India has been infringed.

Learned counsel for the State produces the Case Diary and opposes the prayer for bail.

Bail prayer of the petitioner was turned down by this Court earlier considering the merits of the case. The petitioner was convicted in connection with an earlier offence. In course of rejection of the bail prayer of the petitioner by this Court on April 04, 2024 in CRM(DB) No. 1022 of 2024 the prosecution assured conclusion of trial within six months. The prosecution has not been able to adhere to such assurance. It appears that out of 31 witnesses, the 16th witness is being examined at present.

In view of the observation of the Hon'ble Supreme Court as stated earlier as well as the period of incarceration of the petitioner, this Court is inclined to hold that the petitioner is entitled to be released on bail solely on the touchstone of Article 21 of the Constitution of India without going into the merits of the case.

Accordingly prayer for bail of the petitioner is allowed.

Accordingly, the petitioner **Syed Rizwan Ali @ Sayed Rezwan Ali**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Calcutta subject to condition that the petitioner shall appear before the learned trial Court on every date of hearing fixed

before him and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear on any date without justifiable cause, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

Case Diary be returned.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)