

11.04.2025

Item No.04

Ct.No.34

rc.

Allowed

C.R.M. (M) 55 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 Panskura Police Station Case No. 495 of 2019 dated 08.10.2019 under Sections 302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act.

And

In Re : **Nabarun Mishra**

... Petitioner.

Mr. Ayan Basu
Mr. Sourav Bera
Mr. Sumit Routh

... for the Petitioner

Mr. Avishek Sinha
Mr. S. Kundu

... For the State

Mr. Soumya Nag
Mr. Aditya Tiwari

....for the Victim

Heard learned counsels for the parties.

Petitioner seeks parity with principal accused who has been granted bail by the Hon'ble Supreme Court and with two other co-accused who were released on bail by this Court. The petitioner is in custody for more than 5 years and submits that he stands on the same footing as the co-accused who were granted bail on the ground of their prolonged detention as well as slow progress in trial.

Learned counsel for the State opposes the prayer for bail. Learned counsel for the defacto complainant also opposes the prayer for bail and takes this Court to a judgment of the Hon'ble Supreme Court in Transfer Petition

(Criminal) No. 409 of 2021 seeking transfer of the present case to any other State from West Bengal wherein the Hon'ble Supreme Court directed appointment of Special Public Prosecutor on the recommendation of the learned Chief Judge, City Sessions Court, Calcutta in the said case.

I have considered the material on record.

At the outset it is recorded that the Hon'ble Supreme Court, in the judgment referred to above, directed appointment of a Special Public Prosecutor for trial of the case and further directed the learned Trial Court to endeavour to take up the trial on a weekly basis and make effort to conclude the same within a period of six months. In the order granting bail to the principal accused, Sk. Anisur Rahaman in Criminal Appeal No. 43 of 2025, the Hon'ble Supreme Court has observed that despite direction of the Hon'ble Court, only seventy-five witnesses out of one hundred and fourteen witnesses were examined.

It appears that the petitioner is in custody for more than five years. Since learned counsel for the State submits that examination in chief of the 76th witness has commenced yesterday, completion of trial at an early date is bleak. The petitioner appears to be similarly circumstanced with the co-accused on bail in so far as his period of incarceration as well as progress of trial is concerned.

In view of the above, prayer for bail of the petitioner is allowed without going into the merits of the case, solely on the ground of his prolonged detention and slow progress in trial.

The petitioner, **Nabarun Mishra**, 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 remain within the jurisdiction of Hare Street Police Station except for the purpose of attending the court proceedings on every date of hearing and shall meet the Officer-in-Charge/ Inspector-in-Charge of Hare Street Police Station once a week until further orders. The petitioner shall remain confined to the city of Kolkata after his release on bail and shall cooperate in trial of the case. He shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with any of the conditions mentioned above 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. Also, if it is found that the trial is delayed at the instance of the petitioner due to either his non-cooperation or his learned counsel indulging in unnecessary long cross-examination, his bail shall be liable to be cancelled.

The State is directed to cooperate with the learned trial Court by ensuring presence of all witnesses. The State shall also provide security/protection to witnesses if situation so arises.

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.)