

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (M) 547 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of the Bhartiya Nagarik Suraksha Sanhita 2023 in connection with Titagarh Police Station Case No.504 of 2023 dated 08-11-2023 under Sections 302/34 of the Indian Penal Code.

- A n d -

**In the matter of : Hasan Raja alias Arman
.... Petitioner.**

**Mr. Debasis Kar.
...For the Petitioner.**

**Mr. Madhusudhan Sur, Id. APP,
Mr. Karan Bapuli.
...For the State.**

Report filed by the State is taken on record.

Learned advocate for the petitioner and learned advocate for the opposite party State are present. Heard learned advocates.

Learned advocate for the petitioner submits that his client is in custody for about 1 year 8 months and his prayer for bail may be considered as his son is ill and is to be admitted to hospital for necessary operation. Learned advocate for the petitioner files supplementary affidavit showing the medical documents in support of his above contention. Let the same be taken on record.

Learned advocate for the opposite party State submits upon perusal of the case diary that there are sufficient

materials against the petitioner which shows his involvement in the offence and his prayer for bail was rejected by this Court thrice.

Upon perusal of the materials in the case diary and the earlier orders, at this stage, this Court does not find it fit to consider the bail petition on merits. But, considering the fact that the petitioner is in custody for about 1 year 8 months and this case involves examination of 27 witnesses, out of which 7 witnesses have been examined, it has to be decided as whether the petitioner should be granted interim bail on compassionate grounds.

Learned advocates refer to the earlier orders passed by this Court wherein it is observed that when the date for the petitioner's son's surgery is fixed, he may approach this Court for bail or interim bail on compassionate ground. It is further submitted by the learned advocate for the State relying upon the report issued by the Medical Superintendent, NRSMC and Hospital, Kolkata-700014 that the son of the petitioner is waiting for elective operation at a later date. Currently, the patient is not admitted and does not need any emergency surgical intervention at present.

Upon perusal of the medical prescriptions and the report relied upon by the learned advocate for the State and upon hearing learned advocates for the parties and considering the facts of the case although this cannot be predicted by this Court as to what will be the health condition of the petitioner's son and when there will be

emergency surgery, it is necessary for this Court as to whether the petitioner should be granted interim bail.

The interim bail may be granted during trial more than once after certain period if there is inordinate delay in completion of trial. An accused may be convicted or acquitted on the completion of trial and in the event of being convicted he must have the mental strength to undergo reformation process as the object of punishment is to reform a guilty person. Similarly an accused after being acquitted should also have mental strength and motivation to resume normal life. Incarceration for a long period makes a person depressed and frustrated and may not help him to undergo reformation process in case of conviction or resume normal life after acquittal. It is only when a person's detention is relaxed for some period and he is allowed to meet family members or near relation who can motivate him or visit any religious institution or undergo counseling process he can get strength to face trial or undergo reformation process or resume normal life as the case may be. Granting interim bail with condition will prevent the accused from committing offence, during his release and reasonable apprehension of repeating offence may not be there.

In the case of Manoranjan Mondal –vs- State reported in 2024(3) CHN P-425 where one of us was a member it was observed as follows:-

“8. In this matter the petitioner is in custody for 2 years 10 months. As in this case examination of all the witnesses

are over this case cannot be equated with other cases. Now the point for consideration is whether it is unreasonable on the part of the petitioner who is about 23 years of age and is in custody for about 2 years 10 months to pray for bail at this stage.

9. The answer is obviously no. an undertrial who is presumed to be innocent till proved guilty may reasonably expect that his right to personal liberty be kept in act during trial and he be permitted to stand trial by imposing some restriction of his right instead of detention. A person in custodial detention specially when of young age suffers mental agony, and trauma which may be avoided during pre-trial stage, unless it is a very exceptional case and release of the accused will be threat to public safety and prejudicial to trial. A person being incarcerated for a long during stage of trial loses his contact with his family members and relation which has every possibility to create stress and depression and is not desirable during pre-trial detention. In the event it is not possible to enlarge the accused on confirmed bail the accused may be granted interim bail for a short period few times so that he may meet his family members and relations and exercise his right guaranteed under the Constitution for a short period during his trial when he is presumed to be innocent. When there is a provision of release on parole for a short period of a convict undergoing sentence of imprisonment there may not be any sufficient reason as to why an under trial cannot be granted interim bail for a short period. Thus even if there

is possibility to conclude trial within a short period an undertrial may be granted interim bail if there is difficulty to grant regular bail during trial unless there are very serious exceptional circumstances. All persons have some obligations towards the society and some basic rights. When the said person is implicated in a Criminal Cases he has to face trial. During trial he may be kept in custody or he may be on bail with condition to appear on all dates fixed. In the event it is thought fit to keep a person in custody till conclusion of trial he should be granted interim bail to meet his family. All persons have basic rights to be with their family is also a part of the society, so scope should be given to discharge the said obligation. When such scope is available to convicts undergoing imprisonment to meet family there is no reason why the same should not be granted to undertrial prisoners who are presumed to be innocent till proved guilty unless it is a very exceptional case.”

Learned advocate for the petitioner has also relied upon some decisions of the Hon’ble Supreme Court with regard to grant of interim bail.

Upon considering the facts of the case and the medical documents submitted by the learned advocate for the petitioner and the fact that the petitioner is already in custody for about 1 year 8 months and the case involves examination of 20 more witnesses which will take a considerable time, this Court is of the view that in the

interest of justice, the petitioner should be granted interim bail.

Thus, the petitioner, namely, **Hasan Raja alias Arman**, be released on interim bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, for a period of eight weeks from date subject to the satisfaction of the learned trial Court. The petitioner upon being released, shall meet the Officer-in-charge/Inspector-in-charge of the concerned police station twice in a week and shall not enter into the locality where the incident took place without the leave of the trial Court and shall not meet with the persons familiar with the facts of this case and shall attend the Court below on all dates fixed.

Upon completion of eight weeks the petitioner shall surrender before the learned trial Court and the learned trial Court may extend the interim bail or defer the same till some other witnesses are examined or may pass such order as it deems fit and proper.

The application for bail is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Biswaroop Chowdhury , J.)