

05.06.2025
Item No.12
Court No.6
Susanta/
Aminur
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION**

CRM(M) 585 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 S.T. No. 5(8)2022, S.C. No. 348/2022, G.R. Case No. 1117/2022 arising out of Gobardanga Police Station Case No.79 of 2022 dated 28.03.2022 under Section 302 of the Indian Penal Code.

-And-

In the matter of : Anirban Nag

... Petitioner

Mr. Angshuman Chakraborty,
Mr. Shashanka Shekhar Saha,

...For the petitioner.

Ms. Sukanya Bhattacharya,
Ms. Puspita Saha,

... For the State.

Learned Advocate for the petitioner and the learned Advocate for the State are present.

Heard learned Advocates for the parties.

Perused the materials in the case diary.

Learned advocate for the petitioner submits that his client, who is only 24 years of age, is in custody for more than three years and six months and the trial is yet to be completed.

Learned advocate further draws the attention to the order dated 16.10.2023 and submits that the prayer of the petitioner was lastly rejected on the ground that the vital witnesses was yet to be examined, who are already examined at this stage .

Learned advocate also draws the attention to the order-sheets.

Learned advocate for the State opposes the grant of bail application and submits that the materials will show the direct involvement of the petitioner and it is pre-motivated crime.

Learned advocate further submits that at this stage already twenty-two witnesses have been examined and only few witnesses are yet to be examined.

Upon perusing the materials in the case diary and upon hearing the learned advocate although the nature of the offence is very serious and at this stage, it would not be proper to make observation with regard to the merit of the case, but it is necessary to decide as to whether the petitioner should be granted interim bail considering the fact that he is in custody for three years and six months.

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 counselling 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 it was observed as follows:-

"In this matter the petitioner is in custody for 2 years 10 months. As in this case examination of all the witness 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.

The answer is obviously no. An undertrial who is presumed to be innocent till proved faulty may reasonably expect that his right to personal liberty be kept intact 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 undertrial 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 and in case of trial in custody for some short interim period. A person has some obligations to see the welfare of his family as 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."

This case is under Section 302 IPC and most of the witnesses have been examined, but it appears that eleven witnesses are yet to be examined and learned advocate submits

that all witnesses will not be examined but only three witnesses will be examined.

The petitioner thus should be granted interim bail for a period of six weeks.

Hence, the petitioner be released on interim bail for a period of six weeks upon furnishing a bond of Rs.10,000/- (Rupees ten thousand), with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Trial Court. The petitioner upon released shall meet the Officer-in-Charge of concerned Police Station twice a week, until further orders and shall appear before the trial court on each and every day of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973/Section 355 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not enter within the territorial jurisdiction of concerned Police Station except for the purpose of attending court proceedings and for reporting to the Officer-in-Charge of the concerned Police Station, until further orders. The petitioner shall not meet the persons acquainted with the facts of the case and shall furnish the address where the petitioner shall presently reside before the learned trial court, the investigating officer and the Officer-in-Charge of the police station under whose jurisdiction he shall presently reside.

On completion of six weeks, the petitioner shall surrender before the Trial Court. The Trial Court may extend the interim bail or make such other order as the Court may deem fit and proper.

Accordingly, the application for bail is disposed of.

(Biswaroop Chowdhury, J.)