

16.
03-06-2025
(ct. no.06)
pp/tm.
(allowed)

CRM (M) 590 of 2025

In re: An application for bail under Section 483 of the
Bhartiya Nagarik Suraksha Sanhita 2023 in
connection with Baruipur Police Station Case No.820
of 2023 dated 29-6-2023 under Sections 302

- A n d -

In the matter of : Hasem Ali Dhali

.... Petitioner.

Mr. Soumya Nag
Mr. Rajdeep Sengupta

... For the Petitioner.

Mr. Arijit Ganguly,
Ms. Manasi Roy

... For the State.

Mr. Soumya Basu Roy Choudhury,
Ms. Sabir Ali Molla
Md. Abdul Halim Molla

... For the de facto complainant.

1. It is said on behalf of the accused-petitioner that he was arrested on 29.6.2023 and since then he is in custody.

2. It is further said that the charge in connection with this case was framed by the learned trial court on 6.12.2023 and thereafter evidence taking process was started. On 16.7.2024 PW1 was firstly examined. There are 13 witnesses named in the charge sheet submitted by the prosecuting agency. It is said by the learned advocate for the petitioner that there is no immediate chance of conclusion of trial and the petitioner cannot be detained behind the bar for indefinite period of time without giving speedy trial to him as enshrined in the Constitution of India. So this accused-petitioner may be enlarged on bail on the touchstone of Article 21 of the Constitution of India.

3. Learned advocate for the State raises objection by submitting that the delay in progressing the trial cannot be attributed to the prosecution and the same was caused on behalf of the accused-petitioner. Moreover, the offence involved in this case is serious in nature and sufficient incriminating materials have been gathered in the case diary which reflects about prima facie involvement of this accused-petitioner with the alleged offence. If at this stage this petitioner is enlarged on bail then there is every possibility of hampering of progress of trial.

4. Learned advocate for de-facto complainant also raises objection against the prayer for bail filed by the accused-

petitioner. It is said that there is serious allegation against this accused-petitioner and as such he may not be enlarged on bail.

5. I have considered the rival submissions advanced by both the parties and have perused the materials placed before this court at the time of hearing.
6. It is an admitted position that charge was framed by the learned trial court on 16.12.2023 and there are 13 witnesses named in the charge sheet. The evidence taking process was started by examining PW1 on 16.7.2024. It is brought to the attention of this court by the learned advocate for the petitioner that presently there is no presiding officer in the learned trial court and as such there is no immediate chance of conclusion of trial. Petitioner is in custody for more than one year. It is repeatedly observed by the Hon'ble Apex Court that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India. The liberty of an accused who is facing prolonged trial deserves attention of the court and the prolonged incarceration of under-trial prisoners violates the constitutional principles of dignity and liberty. Hence, without touching the merits of this case and solely on the touch stone of Article 21 of the constitution of India I am inclined to grant bail to the petitioner.

7. Accordingly, I direct that the petitioner, namely, **Hasem Ali Dhali** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned ACJM Baruipur, South 24 Parganas on condition that the petitioner shall not make threat, promise and induce to any of the charge sheeted witness and shall appear before the trial Court on every date of hearing. The petitioner shall not enter the jurisdiction of Baruipur P.S and provide the address where he would reside to the investigating agency and the trial court.
8. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.
9. The application for bail is, thus, **allowed**.
10. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.
11. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Prasenjit Biswas, J.)