

02.07.2025
SL No.49
Sg/sm
(Allowed)

C.R.M. (M) 813 of 2025

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of the B.N.S.S., 2023 filed on **19.06.2025** in connection with **Kaliyaganj** P.S. Case No. **212 of 2019** dated **16.09.2019** under Sections 143/341/447/326/302/307 of the IPC.

And

In the matter of: **Illias Hussain @ Ilias Miah**

....Petitioner

Mr. Ayan Bhattacharjee,
Mr. S Haque,
Ms. Mitul Hajra

...for the petitioner

Mr. A Roy

...for the de facto complainant

Mr. Bibaswan Bhattacharya,
Mr. Prakash Mishra

...for the State

1. Learned senior counsel for the petitioner is pressing for bail on the ground of parity. Leaned senior counsel submits that petitioner is in custody since 11th April, 2020. Learned senior counsel submits that after conclusion of examination of prosecution witness on 16th March, 2024. Learned public prosecutor filed an application under Section 311 of Cr.P.C. for examination of 23 new witnesses. The application was allowed by the learned trial judge vide order dated 3rd July, 2024.

2. Learned senior counsel submits that against this order C.R.R. 4566 of 2024 was filed by co-accused Rubina Parvin @ Rubin Parveen and other. The coordinate Bench of this Court vide order dated 8th November 2024 stayed the further

proceedings of Sessions Case No.32 of 2021. Learned senior counsel submits that earlier bail application of the petitioner was rejected by this court on 21st January, 2021. However, at that time, the petitioner was in custody for around ten months. Learned counsel submits that thereafter, the Division Bench of this Court in C.R.M. (DB) 3716 of 2024 in the matter of co-accused Dalil Mia @ Dalil Miah & Anr. vide order dated 26th March, 2025, admitted to bail taking into the period of incarceration. Learned senior counsel submits that similarly co-accused Mijanur Rahaman was also admitted to bail taking into account the period of incarceration by this Court on 11th September, 2024 in C.R.M. (DB) 2581 of 2024. Learned senior counsel submits that taking into account the period of incarceration the present petitioner may also be admitted to bail.

3. Learned counsel for the State has very fairly submitted that the present petitioner is similarly circumstanced as far as the period of incarceration is concerned. Learned counsel for the state also submits that if the petitioner is released on bail they may not attend to the trial. Learned counsel for the de facto complainant has opposed the bail application.

4. The offence against the accused persons is undoubtedly serious in nature. However, admittedly the role of the present petitioner was that he was holding one of the deceased as is being stated by the learned counsel for the State.

5. The Apex Court has time and again emphasized the speedy trial taking into account the enshrined golden principle that liberty is paramount and more sacrosanct. The constitutional courts have been bestowed with the responsibility of ensuring that the under trial may not remain in custody only on the account of the delayed trial. The incarceration during the trial cannot be converted into punitive detention as a person is presumed innocent till proven guilty in accordance with law.

6. The court is conscious of the fact that the delay is also on account of the fact that a revision petition is filed by the co-accused in which the stay has been granted by this court. But for that present petitioner cannot be penalized and particularly when two of the other co-accused persons have been admitted to bail on the period of long incarceration.

7. In the facts and circumstances, taking into account, the period of incarceration and the petitioner being similarly circumstances as to Dalil Mia @ Dalil Miah as that to Mijanur Rahaman and Sohel Rana @ Soyel Rana @ Soyel Raha. The petitioner is released on bail upon furnishing bond of Rs.10,000/-, with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate Raiganj, Uttar Dinajpur. Subject to the following conditions:-

- (i) The petitioner shall not threaten and intimidate or tamper with the prosecution witnesses in any manner.

- (ii) They shall appear before the learned trial court on each and every date without fail.
 - (iii) The petitioner shall also report to the I.O./Officer-in-Charge of P.S. Kaliyaganj on every fourth Saturday at 5.00 p.m.
 - (iv) The petitioner shall not change his residential address without informing the learned trial court and the I.O.
 - (v) The petitioner shall also inform his mobile number to the I.O.
 - (vi) The petitioner shall not travel abroad without permission of the learned trial court.
- 8.** The application for bail is, thus, allowed.
- 9.** All parties shall act on the basis of the server copy of this order.

(Dinesh Kumar Sharma, J.)