

21. 14.01.2025
Court
No.29 (Pritam)
(Allowed)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3011 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Madhyamgram** Police Station Case No. **525/2022** dated **23.10.2022** under Sections **302/201/34** of the IPC, 1860.

And

In the matter of: - **Abdul Sahil & Anr.**

...petitioners.

Mr. Angshuman Chakraborty,
Mr. Shashanka Sekhar Saha

...for the petitioners.

Mr. Saibal Bapuli,
Mr. Kausik Biswas

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioners renew their prayer for bail, which was rejected on merits earlier. They say they are in custody for more than 2 (two) years. Only 1 (one) out of 16 (sixteen) charge-sheet named witnesses has been examined and that, too, of in part. On the touchstone of Article 21 of the Constitution of India, they pray for bail.
2. The State has filed a report. Let the same be kept with the records.
3. Learned Additional Public Prosecutor, opposing the prayer for bail, draws out attention to statements of witness recorded

under Section 161 Cr.P.C. It cannot be said that there is no incriminating material against the petitioners at all.

4. However, we see that the petitioners have been in custody for a considerable period of time. There is very little progress in trial. The prosecution may have an excellent case to secure the conviction of the petitioners. Nobody stops them from doing so. However, the trial cannot be kept pending for an indefinite period of time keeping the accused persons in judicial custody all throughout. This would militate against the fundamental principles enshrined in Article 21 of the Constitution of India, which must ordinarily override all other considerations.
5. Without touching the merits of the case and solely on the ground of long detention of the petitioners coupled with there very little progress in the trial and seeing an early conclusion of the trial is highly unlikely, we feel constrained to enlarge the petitioners on bail.
6. Accordingly, we **allow** the petitioners' prayer for bail.
7. Accordingly, we direct that the petitioners, namely, **Abdul Sahil & Md. Tipu @ Tipu** 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 *Chief Judicial Magistrate*, North 24 Parganas at Barasat. The petitioners shall appear before the trial Court on each and every date 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 petitioners shall not enter the territorial jurisdiction of *Madhyamgram* Police Station except for the purpose of attending court proceedings, until further orders. The petitioners shall report/meet to the Officer-in-Charge/Inspector-in-Charge of the jurisdictional police station where he will reside currently, once in every week, until further orders. The petitioners shall inform the Investigating Officer through their advocate about their present local address where they will be residing while on bail.

8. In the event the petitioners fail 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 being CRM (DB) 3011 of 2024 is, thus, disposed of.
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.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)