

56. 22.01.2025
Court
No.29 (Tanmoy)

Allowed

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

CRM (DB) 3410 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 **Pathar Pratima** Police Station Case No.**299/2021** dated **15.11.2021** under Sections **302/120B** of the Indian Penal Code. Charge-sheet submitted under Sections **304/34** of the Indian Penal Code. Charge under Sections **302/120B/201** of the Indian Penal Code.
And

In the matter of: - **Nitai Bhunia & Anr.**

...petitioners.

Mr. Ayan Basu
Mr. Sandip Kr. Mondal
Mr. Sumit Routh

...for the petitioners.

Ms. Faria Hossain, APP
Ms. Trina Mitra

...for the State.

Dictated by Apurba Sinha Ray, J.

1. Status report filed by the State be kept with the records.
2. Learned Counsel for the petitioners submits that the petitioner is in custody for about three years and two months. Only one witness out of 31 charge-sheet named witnesses has been examined and that too, in part. There is no chance of an early conclusion of the trial. The case is based on circumstantial evidence. There is no direct eyewitness to the alleged commission of offence. The petitioners are entitled to bail in view of the recent judicial decisions of the Hon'ble Apex Court.
3. Learned Counsel for the State opposes the prayer for bail. According to her, there are sufficient incriminating materials

against the present petitioners. Though the case is based on circumstantial evidence, there is chance of conviction of the present petitioners. However, the prosecution wishes to examine 21 witnesses instead of 31 charge-sheet named witnesses.

4. We have considered the materials on record. The petitioners are in custody for about three years and two months. There is no chance of an early conclusion of the trial since the prosecution is to adduce evidence of 20 charge-sheet named witnesses.
5. Considering the long incarceration of the present petitioners and also keeping in mind the importance of a citizen's fundamental right to personal liberty and speedy trial, which ordinarily must override all other considerations, as enshrined in Article 21 of the Constitution of India, we are inclined to allow the prayer for bail of the present petitioners on certain conditions.
6. Accordingly, we direct that the petitioners, namely, **1. Nitai Bhunia, 2. Sunanda Samanta**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kakdwip, South 24-Parganas, subject to condition that 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 Bharatiya Nagarik Suraksha Sanhita,

2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (DB) 3410 of 2024 is accordingly disposed of.
9. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)