

36.
14-01-2025
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 3299 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Chanchal Police Station Case No.1078 of 2019 dated 13-12-2019 under Sections 302/201/34 of the Indian Penal Code.

- A n d -

In the matter of : **Subrata Baiswamali @ Subrata
Baishamali @ Sanu Baishamali @
Subrata Baisyamali**
.... Petitioner.

Mr. Uday Sankar Chattopadhyay,
Mr. Biswajit Tiwari,
Ms. Trisha Rakshit,
Ms. Rajashree Tah,
Ms. Aishwarya Datta

... For the Petitioner.

Mr. Ranabir Roychowdhury,
Ms. Puspita Saha

... For the State.

Ms. Alvina Bakhteyar

... For the defacto complainant.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State is taken on record.
2. The petitioner is in custody for more than five years. 18 out of 35 charge sheet named witnesses have been examined. Learned advocate for the State says that the next schedule is fixed on February 10 & 11, 2025. He says that although there may not be any direct evidence, there is strong circumstantial evidence against this petitioner. He vehemently opposes the prayer for bail.

3. Five years is far too long a period of time to keep an undertrial in incarceration. We have said on many occasions that the prosecution may have an iron cast case to secure the conviction of the accused person. That *per se*, will not justify keeping the accused person in incarceration for an indefinitely long period of time without taking the trial to its logical conclusion.

4. Although the report filed by the State mentions that the trial is likely to conclude within one year approximately “subject to trial Court’s diary permission”, we are not convinced by such a statement. Going by the past conduct of the trial, we do not see that the trial is likely to end in the near future.

5. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to allow the petitioner’s prayer for bail

6. Accordingly, we direct that the petitioner, namely, **Subrata Baiswamali @ Subrata Baishamali @ Sanu Baishamali @ Subrata Baisyamali**, 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 Additional Sessions Judge, Chanchal, Malda. The petitioner shall appear before the learned trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of English Bazar Police Station except for the purpose of attending the court proceedings and shall appear before the Officer-in-Charge/Inspector-in-Charge of the said police station once in every week, until further orders.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

8. The application for bail is, thus, **allowed**.

9. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

10. 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.)