

43. 11.02.2025  
Court  
No.29 (Tanmoy)

Rejected

**CRM (DB) 3434 of 2024**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Gazole P.S. Case No.40/2019 dated 30.01.2019.

And

In the matter of: - **KAMAL HASAN**

...petitioner.

Mr. Asfak Ahammed

...for the petitioner.

Ms. Sonali Das

Ms. Afreen Begum

...for the State.

**Dictated by Arijit Banerjee, J.**

1. The petitioner renews his prayer for bail which was rejected thrice earlier, lastly on February 10, 2022, by a co-ordinate Bench of this Court in CRM 8748 of 2021. He says that he is in custody for about five years and seven months. Trial has still not concluded. On the touchstone of Article 21 of the Constitution of India he prays for bail.
2. Learned State Advocate, while opposing the bail prayer, drew our attention to a dying declaration made by the victim lady who was the wife of this petitioner. The declaration shows that the petitioner, in conspiracy with his mother and brother, killed the victim lady by setting her on fire. The petitioner locked the concerned room from outside thereby facilitating the murder of his wife by burning.
3. We find that the examination of the witnesses is over. Only the cross-examination of the last witness has been deferred at the

instance of the defence. Once the defence concludes such cross-examination, the trial may be concluded very soon.

4. We also note that the other accused persons being the petitioner's mother and brother are still absconding. If enlarged on bail, there is real possibility of the petitioner disappearing into thin air. We find there is very strong evidence for convicting the petitioner. If convicted, he faces mandatory life sentence.
5. In view of the aforesaid, in spite of lengthy detention of the petitioner in judicial custody, we are not inclined to entertain the petitioner's prayer for bail.
6. There is no inflexible rule that when an under-trial accused is in judicial custody for a long period, he must necessarily be enlarged on bail. Other factors like the gravity of the offence, the incriminating material on record, the conduct of the accused and the punishment that he is likely to face must also be considered and balanced against the fundamental rights of an accused under Article 21 of the Constitution of India.
7. The prayer for bail is rejected.
8. The application being CRM (DB) 3434 of 2024 is accordingly dismissed.

**(Apurba Sinha Ray, J.)**

**(Arijit Banerjee, J.)**