

44. 29.01.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3436 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, in connection with **Baruipur** Police Station Case **No.2051/2021** dated **23.11.2021** under Sections **302/201/34** of the Indian Penal Code.
And

In the matter of: - **Imran Khan @ Sk. Imran**

...petitioner.

Mr. Jaydeep Biswas
Mr. Kaushik Ghosh

...for the petitioner.

Mr. Sandip Chakraborty
Ms. Trisha Rakshit

...for the State.

Dictated by Arijit Banerjee, J.

1. By our order dated January 17, 2025, we had called for a status report from the State indicating the stage of the trial, how many more witnesses the prosecution intends to examine as also the reasons for delay in progress of trial, since till date, only one prosecution witness has been examined.
2. A Memo. of Evidence has been filed by the Investigating Officer which is of no use to us. It does not indicate how many more witnesses the prosecution proposes to examine.
3. Learned State Counsel strongly opposes the prayer for bail. He says that there are sufficient incriminating materials against the petitioner. He was last seen together with the deceased.

4. In any event, we find that the petitioner is in custody for over three years and two months. Only one prosecution witness has been examined. There are 17 charge-sheet named prosecution witnesses.
5. We see from the order-sheets that on certain occasions the hearing was deferred at the instance of the petitioner. However, it cannot be said that the entire delay is because of the petitioner. There is no possibility of an early conclusion of the trial. The case is based on circumstantial evidence.
6. Without touching the merits of the case, solely on the touchstone of Article 21 of the Constitution of India, we feel impelled to enlarge the petitioner on bail.
7. Accordingly, we direct that the petitioner, namely, **Imran Khan @ Sk. Imran** 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 the learned Chief Judicial Magistrate, South 24-Parganas at Alipore, subject to condition that the petitioner 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 and on further condition that the petitioner, while on bail, shall remain outside the territorial jurisdiction of Baruipur Police Station

and shall furnish his present address to the Inspector-in-Charge of Baruipur Police Station as well as to the learned Trial Court and shall also meet the Inspector-in-Charge of the concerned Police Station within whose jurisdiction he shall be presently residing, once in a week, until further orders.

8. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
9. The application for bail being CRM (DB) 3436 of 2024 is accordingly disposed of.
10. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)