

Allowed

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

CRM (DB) 3464 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 **Katwa** Police Station Case No.**309/2021** dated **22.8.2021** under Sections **302/34** of the Indian Penal Code.

And

In the matter of: - **RAHUL GHARUI**

...petitioner.

Mr. Atis Kumar Biswas
Mrs. Jyoti Agarwal

...for the petitioner.

Ms. Faria Hossain, APP
Ms. Suveni Banerjee

...for the State.

Dictated by Apurba Sinha Ray, J.

1. Report filed by the State be kept with the records.
2. Learned Counsel for the petitioner submits that the petitioner is in custody for almost three and half years. Only one witness out of 17 charge-sheet named witnesses has been examined. There is no chance of an early conclusion of the trial. Considering his period of custodial detention, the petitioner may be enlarged on bail on any condition that this Court may decide.
3. Learned Counsel for the State opposes the prayer for bail. According to her, there are three eyewitnesses and the statements of those witnesses were recorded under Section 164 of the Criminal Procedure Code, 1973. The prosecution will adduce only seven witnesses more. If the petitioner is enlarged on bail, the prosecution may suffer.

4. We have considered the materials on record. We find that on seven occasions the prosecution was unable to produce any witness. It appears that the first date fixed for witness action was on March 8, 2022. On December 13, 2024, only PW1, namely, Rama Majhi, has been examined in full and discharged.
5. We find that there is no chance of an early conclusion of the trial. Considering the long incarceration of the present petitioner and only on the ground of inordinate delay in progress of the trial and also keeping in mind that the fundamental right of an under-trial accused to personal liberty and speedy trial cannot be over-emphasized, without touching the merits of the case, we are compelled to enlarge the petitioner on bail on certain conditions.
6. Accordingly, we direct that the petitioner, namely, **RAHUL GHARUI**, 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 Additional Chief Judicial Magistrate, Katwa, Purba Bardhaman, 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 not enter the territorial jurisdiction of Katwa

Police Station except for the purpose of attending Court proceedings and shall furnish his present address to the Officer-in-Charge/Inspector-in-Charge of Katwa Police Station as well as to the learned Trial Court and shall also meet the Officer-in-Charge/Inspector-in-Charge of the concerned Police Station within whose jurisdiction he shall be presently residing, 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 Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
8. The application for bail being CRM (DB) 3464 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.)