

79.
06-02-2025
(ct. no.29)
S. De
(Allowed)

CRM (DB) 3630 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Sabang Police Station Case No. 167** of **2021** dated **05.05.2021** under **Sections 302/34** of the Indian Penal Code.

And

In the matter of : Alaka Mahesh.

.....Petitioner.

Mr. Deba Prasad Samanta,
Mr. Amal Krishna Samanta,for the Petitioner.

Mr. Amajit De, Special P.P. for CBI
.....for the CBI.

Dictated by Arijit Banerjee, J.

1. The petitioner claims parity citing an order dated September 2, 2024, passed in CRM (DB) 2195 of 2024, whereby a co-ordinate Bench enlarged a co-accused person on bail only on the touchstone of Article 21 of the Constitution of India noting that that co-accused person was in custody for 2 years and 3 months and only 2 out of 56 (we are told in fact 60) chargesheet named witnesses have been examined. The petitioner says that he is in custody for 3 years now. There has been no progress in the trial. He prays for bail.
2. Learned advocate for the CBI opposes the prayer for bail. On instruction, he says that the co-accused person, namely, Joydeb Barman, who was granted bail and this petitioner do not stand on the same footing. There is sufficient incriminating evidence against this petitioner. Hence, bail should not be granted.

3. We are not on merits. The prosecution may have sufficient material to secure the conviction of the petitioner. The prosecution should do so at the earliest. However, we see that the petitioner is in judicial custody for 3 years and only 3 out of 60 chargesheet named witnesses have been examined till date. There is no possibility of an early conclusion of the trial.
4. Without touching the merits of the case and solely on the ground of delay in trial, we feel constrained to allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **Alaka Mahesh** shall be released on bail upon furnishing a bond of Rs.10,000/- , with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Chief Judicial Magistrate, Paschim Medinipur and on further conditions that she shall not enter the jurisdiction of Sabang Police Station under the district of Paschim Medinipur except for attending the court proceedings and shall provide the address where she shall presently reside to the Officer-in-Charge of the concerned police station within whose jurisdiction she shall presently reside.
6. The petitioner shall appear before the 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.

7. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.
8. The application for bail is, accordingly, allowed.
9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)