

14.02.2025
Item No.47
Court No.26
Allowed
CHC

CRM (DB) 3798 of 2024

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973, corresponding to Section **483** of BNSS, 2023 in connection with **New Town** Police Station Case No. **477/18** dated 18.11.2018 under Sections **302/34** of the Indian Penal Code read with Sections **25/27** Arms Act, and subsequently after chargesheet added Sections 201/120B of the Indian Penal Code.

-And-

In the matter of : **Sk. Rafique @ Sk. Rakibul**

... ... Petitioner

Md. Shakir, Advocate

... ... *For the Petitioner*

Mr. Debasish Roy, Ld. P.P.

Mr. Arijit Ganguly, Advocate

Mr. Koushik Kundu, Advocate

... ...*For the State*

1. Petitioner prays for bail.
2. Learned advocate appearing for the petitioner submits that, petitioner is in custody in excess of six years three months. Out of 37 prosecution witnesses, none were examined in full at the trial. He submits that, there is hardly any possibility of the trial concluding any time soon.
3. Learned advocate appearing for the State submits that, two prosecution witnesses were examined. He refers to the materials in the Case Diary and the order of rejection of the prayer for bail on earlier occasion.

4. The last order of rejection of bail of the petitioner was on February 14, 2022 passed in CRM(DB) 2698 of 2021.
5. Prayer was rejected on the ground that, petitioner was identified in the test identification parade as one of the assailants.
6. Four years down the line from the last order of rejection, we find that, there is hardly any progress at the trial. Out of 37 prosecution witnesses, none of the prosecution witnesses are yet to be fully examined, although, the two prosecution witnesses were tendered at the trial.
7. On the principles of Article 21 of the Constitution of India, in view of the delay of the trial, we are inclined to grant bail to the petitioner.
8. Moreover, we find co-accused was granted bail by the coordinate Bench on September 24, 2024 passed in CRM(DB) 2481 of 2024 *inter alia*, on the ground of Article 21 of the Constitution of India.
9. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the **Learned Additional Sessions Judge, Fast Track Court-II, Barasat**, subject to condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

10. In the event, the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without further reference to this Court.

11. The prayer for bail of the petitioner is **allowed**.

12. CRM(DB) 3798 of 2024 is **disposed of**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)