09.10.2026
cm/sdas
ct 33
sl no.28

C.R.M. (M) 2075 of 2026

In Re : An application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Diamond Harbour P.S. Case No. 293 of 2022 dated 07.06.2022 under Section 302 of the Indian Penal Code.
In Re : Suvan Sk. @ Raju Sk.

..... petitioner

Mr. Soubhik Mitter
Ms. Rajnandini Ds
Mr. Karan Bapuli

..... for the petitioner

Mr. Kallol Kumar Basu
Ms. Katika Jain

..... for the State

1. Learned Advocate representing the petitioner submitted prayer for bail was rejected by the Davison Bench of this Court on 19th December, 2023 prior to charges been framed. The charges were famed on 5th January, 2024. Thereafter the evidence of the prosecution witnesses being P.W. 1 and 2 had been recorded and on several occasions as per the certified copy of the order-sheet placed before this Court no progress in recording evidence of remaining 19 witnesses out of 21 charge-sheeted witnesses had been proceeded with. The petitioner being in custody for four years and four months, he is entitled to prayer for bail since the possibility of concluding the recording of evidence is remote. It was further submitted that the petitioner being sole accused had been apprehended on the basis of circumstantial evidence.

2. Learned Advocate representing the petitioner relied on the observations of the Hon'ble Supreme Court in para of the decision cited in (2021) 3 SCC 713 : 2021 SS OnLine SC 50 (Union of India vs. K. A. Najeeb) are stated as follows :

> "Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondents are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected."

3. Learned Advocate representing the State controverted the submissions of the learned Advocate representing the petitioner, citing the prosecution had not been solely responsible in protracting the trial. Moreover, the offending weapons had been recovered at the instance of the present petitioner following his leading statement, CCTV footages and two last seen witnesses incriminate the petitioner.

4. The Supreme Court has further observed as follows :

" This Court has clarified in numerous judgments that the liberty guaranteed by Pat III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In *Supreme Court Legal Aid Committee (Representing Undertrial Prisoners*) vs. *Union of India,* it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of is acts unless the same is established before a neutral arbiter. However,

owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail."

5. Considering the observations of the Hon'ble the Supreme Court the petitioner is enlarged on bail considering the period of detention and the possibility to conclude the trial immediately being remote, prayer for bail of the petitioner is considered and allowed.

5. Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.50,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Diamond Harbour, on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and shall visit the local police station once in a week until further orders.

6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

7. The application being CRM(M) No. 2075 of 2026 is allowed and disposed of.

(Ananya Bandyopadhyay, J.)