**1 & 2 07.04.2026**
**SM Ct No.238**

**(Allowed)**

**CRM (DB) 2551 of 2024**

**Letter of the Prisoner Sudipta Sen**
**Vs.**
**State of West Bengal**

**With**

**CRM (DB) 3548 of 2024**

**Sudipta Sen**
**Vs.**
**State of West Bengal**

Mr. Sabir Ahamed
Mr. Sujoy Sarkar
Mr. Prasun Mukherjee
Ms. Indranil Roychowdhury
Ms. Moumita Pandit
… … for the petitioner

Mr. Saryati Datta
…. for the State in CRM(DB) 2551 of 2024

Mr. Joydeep Biswas
Ms. Afreen Begum
…. for the State in CRM(DB) 3548 of 2024

Mr. Amajit De, Special PP, CBI
… for the C.B.I.

**1.** The Court is seized of these two applications being CRM (DB) 2551 of 2024 and CRM (DB) 3548 of 2024, for bail preferred under Section 439 of the Code of Criminal Procedure, 1973 (corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The petitioner, Sudipta Sen, Chairman and Managing Director of the Saradha Group, seeks enlargement on bail in connection with Barasat P.S. Case No. 901 of 2013 and

Barasat P.S. Case No. 937 of 2013, involving allegations under Sections 420, 406, and 409 of the Indian Penal Code.

**2.** Mr. Sabir Ahmad, learned Counsel for the petitioner, submits that the petitioner has been in continuous custody for an unprecedented duration of approximately thirteen years, following his arrest on August 14, 2013. It is contended that out of 389 cases initiated against him across the country, including 77 cases investigated by the Central Bureau of Investigation (CBI) under the directions of this Hon'ble Court, the petitioner has been enlarged on bail in 387 matters. These two cases remain the sole impediments to his physical liberty.

**3.** Learned Counsel invites our attention to a profound breakdown in the trial process. In Case No. 901 of 2013, despite the filing of a charge sheet on April 9, 2014, the mandatory "police papers" required under Section 207 of the Cr.P.C. have not been supplied to the petitioner/accused for over a decade. In Case No. 937 of 2013, the trial has reached a total stalemate as the State has admitted that the original Case Record is currently missing. It is argued that the petitioner cannot be made to suffer indefinitely for the State's administrative failures, especially when the trial has become "remote" and "bleak."

**4.** It is vehemently argued that the petitioner, now 64 years of age, suffers from multiple life-threatening co-morbidities and has recently survived a brain stroke. Mr. Ahmad posits that the petitioner's pre-trial detention has already exceeded double the maximum sentence he might have served upon conviction. He posits that continued incarceration as "punitive" rather than "preventative," asserting that a trial which is "bleak" and "remote" constitutes a direct violation of the petitioner's fundamental rights and such a situation is a direct affront to the "reasonable, fair, and just" procedure mandated by Article 21 of the Constitution of India

**5.** Strengthening his contention on the violation of the Right to a Speedy Trial, learned Counsel places reliance on a catena of Supreme Court decisions:

**i.** Union of India v. K.A. Najeeb (2021) for the Constitutional Courts must grant bail when the right to a speedy trial is violated, as Article 21 overrides all procedural and statutory rigors.

**ii.** Satender Kumar Antil v. CBI (2022) for the contention that "bail is the rule and jail is the exception," and that prolonged incarceration without trial is anathema to the Constitution.

**iii.** Shaheen Welfare Association v. Union of India (1996) for the contention that prolong detention must not be allowed to devolve into "pre-trial punishment" when a trial is unlikely to conclude soon.

**iv.** Hussainara Khatoon to reaffirm that the right to a speedy trial is an inalienable safeguard of personal liberty and is an integral part of a "just and fair" procedure.

**6.** Mr. Ahmad further submits that the petitioner is no longer in a position to influence any witnesses or tamper with evidence or make financial investments. He argues that the State's failure to produce the accused for a decade to supply copies, or to preserve the integrity of judicial records, cannot be used as a justification to deprive a citizen of his liberty indefinitely.

**7.** Therefore, he prays for release of the petitioner on bail in both matters, offering to submit to any stringent conditions, including residential restrictions or digital monitoring, to ensure his participation in the trial as and when the records are reconstructed and the procedural mandates are met.

**8.** Mr. Saryati Datta, learned Advocate for the State submits that the petitioner's role was foundational to the deception of thousands of depositors. It is contended that the Saradha Group's operations lured investors with promises of high returns, only to defraud them of their principal amounts, leading to charges under Sections 420, 406, and 409 of the IPC. However, during the course of the hearing, Mr. Datta candidly admits that the trial in this specific case is currently an impossibility as the original Case Record (CR) is missing or misplaced. He acknowledges that without the reconstruction or recovery of these judicial records, no further progress can be rendered in a trial that was initiated over twelve years ago.

**9.** While formally registering an objection to the petitioner's release, the learned Advocate for the State acknowledges the "stalemate" caused by the missing records. Coupled with the petitioner's failing health, specifically a recent brain stroke, it is conceded that the trial is unlikely to conclude in the foreseeable future. The State submits that should this Court be inclined to grant liberty, such relief must be contingent upon the most stringent conditions to prevent the petitioner from absconding or interfering with the reconstruction of the record.

**10.** Mr. Joydeep Biswas, learned Advocate representing the State while emphasizing the grave economic nature of the "Saradha Scam" and its impact on small-scale investors, candidly admits to the procedural morass. The State acknowledges that the trial has remained in a state of "suspended animation" for over a decade. It is conceded that the failure to supply copies under Section 207 Cr.P.C. and the failure to produce the accused before the jurisdictional court have created an insurmountable deadlock.

**11.** The State fairly admits that the prospects of an early trial are "remote" and "bleak." In view of the fact that the investigation was completed in 2014, and considering the petitioner's enlargement on bail in 387 other cases, the State acknowledges that continued custodial detention raises significant constitutional concerns regarding the mandate of Article 21 of the Constitution of India.

**12.** Mr. Amajit De, the learned Special Public Prosecutor for the CBI submits that pursuant to the directions of this Court and the Hon'ble Supreme Court, the CBI took over the investigation into the larger conspiracy and money trail. Out of 389 cases, 77 were transferred to the CBI, all of which have reached the stage of finality with the filing of four primary charge sheets (RC 4/S/2014, RC 5/S/2014, RC 6/S/2014, and RC 51/S/2014). The CBI confirms that the petitioner has been granted bail in all 77 matters and has duly furnished his bail bonds.

**13.** The CBI clarifies that the two Barasat cases currently before this Division Bench (901 and 937 of 2013) remain under the exclusive purview of the State Police. However, the Agency fairly admits that the prospects of an early trial in the remaining cluster of cases are "bleak" and "remote." Given that the investigation attained finality years ago and the petitioner has endured approximately thirteen years of custody, the CBI does not perceive a continued necessity for custodial detention, provided the petitioner remains available for the trial process.

**14.** We have heard the submissions and perused the materials on record. We find a profound challenge to the equilibrium between the gravity of economic offenses and the sanctity of personal liberty. There appears to be a systemic collapse of the trial machinery in these two cases. In Case No.901 of 2013, the investigation concluded in 2014, yet for a decade, mandatory copies under Section 207 of the Cr.P.C. were not supplied. We find the State's plea, that non-supply was due to the petitioner's non-production, to be entirely unsatisfactory. The State failed to demonstrate any effort to seek production orders, and the Trial Court similarly failed to exercise its oversight. Where a decade is consumed merely in the supply of papers, the system has failed the mandate of speedy justice.

**15.** In Case No.937 of 2013, the situation is even more egregious. The State has conceded that the original Case Record is missing. This reflects a shocking lack of care in the preservation of records in such a sensitive matter of such public magnitude. The fact that the system has remained idle without reconstructing these records for years is a substantive barrier that renders the petitioner's right to a "speedy trial" a dead letter.

**16.** Under Article 21, the right to a speedy trial is inalienable. When an individual is detained for thirteen years, a period nearly doubles the maximum sentence for the offenses charged, the detention shifts from "preventive" to "punitive." The "Doctrine of Proportionality" and the principle of Parity further tilt the scales. The petitioner has been enlarged on bail in 387 out of 389 cases, including all CBI matters, without any report of obstructive conduct. To deny bail now, in the face of a "stalemate" admitted by the State, would be to sanction an indefinite life sentence without conviction.

**17.** Consequently, the prolonged detention, the admitted administrative failures, and the petitioner's critical medical condition necessitate judicial intervention. We are of the firm opinion that the petitioner has made out an exceptional case for bail. The applications are allowed. The petitioner shall be released on bail subject to conditions, ensuring his availability to the law as and when the records are reconstructed and procedural defaults are rectified.

**18.** Accordingly, we direct that the petitioner, Sudipta Sen, be released on bail in connection with Barasat P.S. Case No. 901 of 2013 and Barasat P.S. Case No. 937 of 2013, upon furnishing a bond of Rs.5,000/- (Rupees Five Thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate (CJM), Barasat, North 24-Parganas.

**19.** Recognizing the magnitude of the underlying financial scam and the necessity to safeguard public interest, the following conditions are hereby imposed:

(i) The petitioner shall surrender his Passport to the Trial Court (if not already in the custody of any other agency). He is prohibited from leaving the territorial limits of the State of West Bengal without the prior written permission of this Court. He shall provide his fixed place of residence to the Officer-in-Charge (O/C) of the Barasat Police Station and shall not change his residence without prior intimation to both the Trial Court and the O/C.

(ii) The petitioner is strictly restrained from promoting, managing, or acting as an agent or consultant for any financial entity, Collective Investment Scheme (CIS), or Multi-Level Marketing (MLM) firm. He shall not solicit or accept any deposits from the public, directly or indirectly. Any violation shall result in the immediate cancellation of bail.

(iii) The petitioner shall not contact, influence, or intimidate any person acquainted with the facts of the cases, specifically the de-facto complainants and prosecution witnesses. Any substantiated report of witness tampering shall result in the *suo motu* cancellation of this bail.

(iv) The petitioner shall maintain an active mobile phone number, which must be shared with the Investigating Officer (IO) of the Barasat Police District and the Trial Court. This device must remain "ON" at all times, and the petitioner is directed to keep the "Live Location" sharing feature enabled 24/7 for the IO's continuous verification.

(v) The petitioner shall report to the O/C of the Barasat Police District once a month between 11:00 AM and 1:00 PM.

(vi) The petitioner shall attend every date of the trial via virtual mode or physical production as directed by the learned Court below. He is further directed to fully cooperate with the court in the process of reconstructing the missing records.

**20.** We further direct the learned Court below to take immediate and urgent steps for the reconstruction of the missing records in Case No. 937 of 2013. The learned CJM shall submit a status report regarding the progress of such reconstruction to the Registrar (Judicial Service) of this Court within four weeks from the date of this order.

**21.** In respect of Barasat P.S. Case No. 901 of 2013, the State is directed to ensure that the mandatory "police papers" under Section 207 of the Cr.P.C. are served upon the petitioner within three weeks from the date of his release. We emphasize that the supply of these copies must be concluded no later than four weeks from today.

**22.** Once the records are reconstructed and papers are supplied, the learned Trial Court shall endeavour to conduct the trial on a day-to-day basis to the extent possible. No unnecessary adjournments shall be granted to either side. The petitioner is explicitly cautioned that any attempt to delay the trial or breach any of the aforementioned conditions shall entitle the State or the CBI to move for the immediate cancellation of bail.

**23.** The learned CJM, Barasat, shall verify the identification of the sureties and the authenticity of all documents produced for the bail bond before the petitioner is released from the Correctional Home.

**24.** The applications, being CRM (DB) 2551 of 2024 and CRM (DB) 3548 of 2024, are accordingly allowed with the aforementioned directions. The State is at liberty to move for immediate cancellation of bail in the event of any breach.

**(Uday Kumar, J.)** **(Rajarshi Bharadwaj, J.)**