

74. 08.11.2024
Court
No.28 (Tanmoy)

Interim
Bail

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

CRM (DB) 509 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Naxalbari** Police Station Case No.**178 of 2006** dated **24.12.2006** under Sections **376(2)(f)** of the Indian Penal Code, 1860.
And

In the matter of: - **Anup Kumar Minj**

...petitioner.

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Mr. Shubham Kumar
Ms. Sayantani Das
Mr. Hasanur Rahaman

...for the petitioner.

Mr. Kallol Acharjee
Mr. Sanjiv Das

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was last rejected on May 12, 2023, in CRM (DB) 204 of 2023. He says that he is in custody for about five years and eight months. Trial is still continuing. On the touchstone of Article 21 of the Constitution of India, he prays for bail.
2. Opposing the prayer for bail learned State Advocate says that the victim was all of 11 years old at the time of the incident. Only three witnesses remain to be examined. The trial is likely to conclude at an early date. November 26, 2024, is the date fixed for examining the remaining witnesses.

3. We have considered the rival contentions of the parties. Five years and eight months is far too long a period of time to keep an under-trial in incarceration. It has been held by the Hon'ble Supreme Court that if the State does not have the wherewithal for ensuring an early conclusion of a criminal trial, the State should not oppose the bail prayer of an under-trial who is in judicial custody for a long period of time.
4. Solely on the ground of delay in trial and keeping in mind that the fundamental right of a citizen to personal liberty and speedy trial is paramount and overrides all other considerations, we are inclined to grant *interim* bail to the petitioner. This order of *interim* bail shall be operative till December 20, 2024, or until further order, whichever is earlier.
5. Accordingly, we direct that the petitioner, namely, **Anup Kumar Minj** shall be released on *interim* 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, Siliguri, Darjeeling, 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 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on *interim* bail, shall not leave the geographical limits of the district of Darjeeling and shall furnish his present address,

where he will be residing, to the Officer-in-Charge/Inspector-in-charge of Naxalbari Police Station, immediately after being released on *interim* bail and shall also meet the Officer-in-Charge/Inspector-in-Charge of the jurisdictional Police Station, where he will be presently residing, once in a week, until further orders.

6. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, his *interim* bail shall stand automatically cancelled without further reference to this Court.
7. The matter shall be listed again before the next available Circuit Bench.
8. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Biswaroop Chowdhury, J.)