

SUVHO CAHNDRA PRADHAN
(ADVOCATE)

SYNOPSIS

The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking bail in connection with Sessions Trial No. ST ## (#) of ####, arising out of Panduah Police Station Case No. ## dated ##.##.2013, registered under Sections 302/120B of the Indian Penal Code, 1860, read with Sections 25/27 of the Arms Act, 1959. The petitioner, ##### ##### @ ####, was arrested on ##.##.2013 and has been in custody for more than 11 years. The charge sheet was filed against the petitioner and two others, and the trial, which commenced only in 2022, is still pending before the Learned Additional Sessions Judge, Chinsurah. Out of 19 witnesses, only 7 have been examined till date, and there is no likelihood of the trial concluding in the near future.

THE PETITIONER'S EARLIER BAIL APPLICATIONS WERE REJECTED BY:

Learned Chief Judicial Magistrate, Hooghly on ##.##.2021, and
Hon'ble High Court in C.R.M. No. #### of 2022 vide order dated ##.##.2022,
Learned Additional Sessions Judge, 1st Court, Chinsurah on ##.##.2024.

GROUND FOR BAIL

Prolonged incarceration of over 11 years without conclusion of trial.
Delay in examination of witnesses — 12 of 19 witnesses yet to be examined.
Petitioner's right to speedy trial under Article 21 violated.
Petitioner falsely implicated; no direct evidence linking him to the crime.
Settled law that prolonged pre-trial detention entitles an undertrial to bail.
The prosecution case is based on a complaint lodged by ##. ##### (PW1), brother of the deceased ##. #####, amidst a long-standing property dispute between the two. The petitioner, a tenant in the locality, has been falsely implicated and had no role in the alleged offence.
The petitioner has already undergone over a decade of incarceration without conclusion of trial, amounting to pre-trial punishment, in violation of his fundamental right to a speedy trial guaranteed under Article 21 of the Constitution of India.



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It is a settled principle of law, as upheld by the Hon'ble Supreme Court, that when an undertrial has served a substantial portion of the maximum sentence prescribed for the alleged offence, bail should ordinarily be granted. Further detention of the petitioner will serve no fruitful purpose.

The petitioner undertakes not to tamper with evidence, not to influence witnesses, and to abide by all conditions that may be imposed by this Hon'ble Court.

PRAYER

In light of the above facts and circumstances, the petitioner prays that this Hon'ble Court may kindly enlarge him on bail in connection with ST ## (#) of 2022 arising out of Panduah P.S. Case No. ##/2013, and pass such other order(s) as may be deemed fit and proper.

THE HON'BLE JUDGES OPINED

- “It is submitted by the Learned Counsel for the petitioner that the petitioner has been kept in judicial custody for more than **11 years**. It is stated that only **7 out of 19 charge-sheeted witnesses** have been examined and that there is no likelihood of an early conclusion of the trial. It is therefore prayed that the petitioner be enlarged on bail on any condition that may be imposed by the Court.
- The prayer for bail is opposed by the Learned Counsel for the State. It is submitted that the petitioner is alleged to be a veteran criminal against whom at least **24 criminal cases** are pending. It is further stated that the co-accused persons who were earlier granted bail have absconded, and it is apprehended that if the present petitioner is enlarged on bail, he may also abscond.
- The materials on record, including the report filed by the State indicating that **24 criminal cases** are pending against the petitioner, have been considered. It is, however, noticed that no information has been furnished by the State regarding the number of convictions, if any, recorded against the petitioner. It is observed that the petitioner has remained in custody for more than **11 years** in connection with the present case alone, which is found to be shocking to the judicial conscience of this Court. It is held that the fundamental right to personal liberty of an accused person cannot be permitted to be curtailed indefinitely by delaying the progress of the trial.
- In view of the foregoing observations, it is considered appropriate that the petitioner be enlarged on bail, though under stringent conditions.



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- Accordingly, it is directed that the petitioner, namely ##### ##### @ ####, be released on bail upon a bond of **Rs. 10,000/-** with **two sureties** of the like amount each, one of whom must be local, to the satisfaction of the **Learned Chief Judicial Magistrate, Chinsurah, Hooghly**, subject to the following conditions:
- The petitioner shall be required to appear before the trial court on every date of hearing until further orders.
- The witnesses shall not be intimidated, nor shall any attempt be made to tamper with the evidence in any manner whatsoever.
- The petitioner, while on bail, shall be required to remain within the jurisdiction of **Chinsurah Police Station** and to meet the **Officer-in-Charge** of the said police station once every week until further orders.
- It is further directed that in the event of failure on the part of the petitioner to comply with any of the aforesaid conditions without justifiable cause, the trial court shall be at liberty to cause cancellation of the petitioner's bail in accordance with law, without any further reference to this Court.
- The **application for bail** is accordingly **allowed.**"



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