

15.12.2020

Sl. No. 38

Srimanta/Mithun

D/L

**IA No: CRAN/1/2019(Old No.:CRAN/762/2019),
CRAN/3/2020**

in

CRA/681/2018

(Via Video Conference)

In the matter of : Sanjit Mandal & Anr.

... Appellants.

Mr. Partha Sarathi Bhattacharyya, Adv.,
Mr. Debangana Bhattacharjee, Adv.,
Ms. Swarnali Saha, Adv.

...for the Appellants.

Mr. Bidyut Kumar Roy, Adv.,
Mrs. Sonali Das, Adv.

...for the State.

Vakalatnama filed in Court today be kept with the record.

This is an application for bail in connection with the appeal which challenges the Judgement and order of conviction and sentence dated 08.08.2018 and 09.08.2018 passed by the Additional District and Sessions Judge, 5th Court, Malda sentencing the appellant to suffer rigorous imprisonment for five years and to pay fine of Rs. 10,000/- with default clause in respect of the charge under Section 326 of the Indian Penal Code. It is submitted that the Doctors were not examined on evidence who had examined and treated the victim/P.W. 6. The investigating officer has also not seized the medical papers, although, I.O. collected the medical papers from the National Medical College and Hospital

and Malda Medical College and Hospital but the Doctors who had treated injured in those Hospitals were also not examined in support of the prosecution case of grievous hurt so as to bring home charge under Section 326 of the Indian Penal Code. It is also submitted that out of six accused persons two brothers have been convicted and by order dated 10.02.2020 Sanjit Mandal was admitted on bail. Parimal Mandal is the appellant/petitioner here who is in custody for about two years eight months as per the submission made on behalf of the learned Advocates to the parties.

I have heard Mr. Bidyut Kumar Roy, the learned Advocate appearing for the State who candidly submitted that the appeal is not ready as the Lower Court record has not been received. There is least scope of expeditious disposal of the appeal. As such, Mr. Roy submits that in view of a decision of the Hon'ble Supreme Court in case of Bhagwam Rama Shinde Gosai and Ors. Vs. State of Gujrat reported in 1999 (4) SCC 421, the petitioner may be enlarged on bail.

The appellant/petitioner has also been convicted for a period of five years rigorous imprisonment. Now, considering the decision above cited, the appellant/petitioner be enlarged on bail on furnishing a bond of Rs. 10,000/- with two sureties of like amount, one of whom has to be local to the satisfaction of the learned Chief Judicial Magistrate, Malda until further order with the direction that he would attend on all the dates of hearing of the appeal.

Thus, the application being CRAN/3/2020 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Shivakant Prasad, J.)