

**CALCUTTA HIGH COURT CIRCUIT BENCH
JALPAIGURI****C.R.M. 45 of 2019**

Re : An application for bail under section 439 of the Code of Criminal Procedure, 1973.

In re : Krishna Das.....petitioner

Mr. Pabitra Talukder.....for the petitioner

Mr. Kallol Acharjee

Mr. Sagnik Sankar Sikdar for the State

The petitioner, in custody for about 164 days, is seeking bail in connection with Kotwali Police Station F.I.R. No. 730 of 2018 dated 13.10.2018 under sections 302/411/34 of the Indian Penal Code.

Learned advocate appearing for the petitioner has submitted that upon completion of investigation, police report (charge-sheet) under section 173(2) of the Code of Criminal Procedure, 1973 has been submitted before the relevant magistrate; therefore, further detention of the petitioner in custody is not required.

It is next submitted, on the basis of an order dated January 21, 2019 passed by a coordinate Bench of this Court while disposing of C.R.M. 922 of 2019 (Sanat Mitra vs. State of West Bengal & Ors.), that a co-accused standing on similar footing with the petitioner has been granted anticipatory bail and,

therefore, he is entitled to claim parity.

Learned advocate appearing for the State has placed before us the case diary. Placing reliance on certain documents therein, he submits that the petitioner does not stand on similar footing as Sanat Mitra. It is also submitted that there are incriminating materials in the case diary so as to connect the petitioner with the alleged crime and, therefore, no case for grant of bail has been set up.

We have heard learned advocates for the parties and considered the materials on record. Apart from the fact that the petitioner stands on similar footing as Sanat Mitra (*supra*), materials in the case diary are presently insufficient to indicate the extent of complicity of the petitioner in the alleged crime.

In such view of the matter, we are inclined to the view that further detention of the petitioner is not required and that it is a fit and proper case for making a direction, as prayed for.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing bond of Rs. 10,000/- (Rupees Ten thousand) with two sureties of like amount to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri on condition that he shall appear before the trial court on every date of hearing and shall not intimidate any witness or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court, such court shall be at liberty to cancel his bail without

further reference to this Court.

The application for bail, is accordingly, allowed.

(SHIVAKANT PRASAD, J.)

(DIPANKAR DATTA, J.)