

12.04.2021

Item No.2

Ct.No.28

dc.

Allowed

C.R.M. 1546 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Samail Sk. @ Saniul Sk. & Anr.**

... Petitioners.

Mr. Sekhar Basu, Id. Sr. Adv.,
Mr. Robiul Islam,
Mr. Arghya Chakraborti,
Ms. Pramita Banerjee

... For the Petitioners.

Mr. Sudip Ghosh,
Mr. Apurba Kumar Datta

... For the State.

The name of the petitioner no.1 is wrongly appearing in the day's list. Department is directed to make necessary correction.

The order shall be transcribed under the correct cause title, namely, Samail Sk. @ Saniul Sk. instead of Saidur Sk @ Saidur Molla.

At the inception Mr. Ghosh, learned advocate appearing for the State submits the Memo of Evidence. Let the same be kept with the record.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Nowda P.S. Case No. 247 of 2019 dated

10.09.2019 (G.R.No. 3958/2019) under Sections 447/302/120B/34 of the Indian Penal Code.

The learned advocate appearing for the petitioners submits that the petitioner no.1 is in custody since 08.11.2019 and the petitioner no.2 is in custody since 05.11.2019. The learned advocate also draws the attention of this Court to the earlier orders dated 01.10.2020 and 12.03.2020 passed in CRM 7246 of 2020 and CRM 2630 of 2020 respectively in respect of other accused persons who were granted bail. The learned advocate emphasises on the fact that the present petitioners, namely, Samail Sk. @ Saniul Sk. and Bakbul Sk @ Bagbul Sk are better placed than Prabir Hossain who has been granted bail by a co-ordinate Bench of this Court on 12.03.2020.

The learned advocate for the State opposes the prayer for bail and submits that the case has already been committed to the court of sessions and so far as the petitioner no.1 is concerned, he was present when the recovery was effected, although the learned advocate for the State has failed to satisfy this Court regarding the locus standi of the present petitioners to be on the same footing with the accused, namely, Prabir Hossain who has been granted bail by a co-ordinate Bench of this Court.

We have considered the materials on records which include the statements of the witnesses, the recovery being effected from different accused persons, the stage of the case

and after having considered the period of detention of the present petitioners and the possibility of the trial being completed in the near future, we are of the opinion that further detention of the present petitioners is not warranted in the facts and circumstances of the case.

Accordingly, we direct that the petitioners, namely **Samail Sk. @ Saniul Sk.** and **Bakbul Sk @ Bagbul Sk** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Berhampore, Murshidabad subject to the condition that during bail the petitioners shall appear before the learned trial court regularly and they shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail, being CRM 1546 of 2021, is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)