

23 03.09.2020
rkd Ct. No.16
(Allowed)

**C.R.M. 5979 of 2020
(CRAN 1 of 2020 (old CRAN 4426 of 2020)
(Through Video Conference)**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Nowda** P.S. Case No. **247 of 2019** dated **10/09/2019** under Sections **447/302/120B/34** of the Indian Penal Code.

And

In the matter of: Ekarul Sk

....petitioner.

Ms. S. Das

...for the petitioner.

Mr. M. Sur,
Mr. D. Mahapartra

...for the State.

Petitioner undertakes to affirm and stamp the petition/application as per Rules within a month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

Accordingly, CRAN 4426 of 2020 is disposed of.

Petitioner is in custody for 298 days and it is further submitted that co-accused person has been released on bail. He submits that there is no direct evidence connecting him with the alleged crime.

Learned counsel appearing on behalf of the State opposes the prayer for bail and submits that petitioner played active role in the murder of the victim. Incriminating articles were recovered pursuant to the leading statement of the petitioner and prayer for bail was other accused persons have been turned down.

We have considered the materials on record. We note that eyewitnesses have not noted the presence of the petitioner at the

place of occurrence. Hence, he does not stand on the same footing with the co-accused whose prayer for bail was rejected. Impact of the CDRs as well as the alleged recovery is to be assessed in the backdrop of the other facts and circumstances of the case. Keeping in the mind the extent of complicity of the petitioner in the alleged crime and the period of detention suffered by the petitioner and as possibility of commencement of trial does not appear to be rosy in prevailing pandemic situations, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner is directed to be released on bail upon furnishing a Bond of Rs. 10,000/- 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 he shall appear before the learned trial court regularly and he shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails 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 is, thus, disposed of.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)