

21.09.2020
Sc

**IA No. CRAN 1 of 2020
CRM 6711 of 2020**

(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Santipur Police Station Case No. 526 of 2018 dated November 28, 2018 under Sections 328/272/273/304/34 of the Indian Penal Code, 1860 read with Sections 46AA/46B of the Bengal Excise Act, 1909.

And

In the matter of: **Sri Sadhan Biswas @ Sadhu & Ors.**

....Petitioners (in custody).

Ms. Sananda Bhattacharyya

...for the Petitioners.

Mr. Nuguive Ahmed

Mr. Bidyut Kr. Roy

Ms. Rita Dutta.

...for the State.

The petitioners undertake to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The charge against the accused is culpable homicide not amounting to murder. This charge was framed on the allegation that the accused had supplied poisonous liquor to the victim which caused death. Each of the accused is in custody for over two hundred days.

Chargesheet has been submitted. Charges have been framed. Learned counsel for the respondent submits that trial has started.

We are most sorry to observe that the learned Public Prosecutor does not appreciate the proper principle of law governing grant or rejection of bail. The submission of the Public Prosecutor seems to be

that once since the accused has been taken into custody, till conclusion of the trial, he has to be kept in custody irrespective of the fact that there is no allegation against him of interfering with the trial or witnesses, tampering with evidence or fleeing from justice. In these facts it is not our law that from the date of arrest till the date of sentence or acquittal, the accused has to be kept in custody.

In such view of the matter, the petitioners are entitled to bail.

We allow the application for bail.

The petitioners will be released on bail upon furnishing security of Rs. 10,000/- each together with personal release bond of equivalent value each to the satisfaction of the appropriate court in Nadia. The petitioners must, however, attend on every date fixed for trial and in the event of failing to do so, the trial court shall be at liberty to cancel the bail of the petitioners without any reference to this Court.

The learned Public Prosecutor prays for stay of operation of this order. such prayer is considered and rejected.

CRM 6711 of 2020 and the interim application filed therein are disposed of.

(I. P. Mukerji, J.)

(Md. Nizamuddin, J.)