

18.09.2020  
Court No.08  
Item No. 18  
Krishnendu  
Bail Granted

**C.R.M. 6769 of 2020**  
**With**  
**C.R.A.N. 1 of 2020**  
**(Via video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with English Bazar P.S. Case No. 119 of 2020 dated 04.02.2020 under sections 417/379/395 of the Indian Penal Code and sections 25/27/35 of the Arms Act;

In Re : **Munna Chowdhury & Ors.**

.....Petitioners

Mr. Prabir Majumder

....For the Petitioners

Mr. Bidyut Roy

Ms. Rita Dutta

.....For the State

Heard the learned advocates appearing on behalf of the parties.

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

The application, being C.R.A.N. No. 1 of 2020, is disposed of.

It is submitted on behalf of the petitioners that they are in custody for 310 days. They were identified by one Avijit

Kundu, who had been earlier arrested in connection with this case.

Learned lawyer appearing for the State submits that Avijit Kundu, though arrested earlier, has not been sent up for trial. He was present at the place of occurrence and has identified the accused persons.

We have considered the materials on record. The statement of Avijit Kundu recorded under sections 161/164 of the Code of Criminal Procedure is exonerative in nature. There is nothing in the charge sheet to show that the Investigating Officer had prayed for discharge of the said Avijit Kundu, though he had been arrested earlier. In this factual matrix, it is claimed that Avijit Kundu identified the accused persons in the course of Test Identification Parade Examination. Hence, identification of the petitioners by the said person is to be assessed in the backdrop of the attending facts and circumstances of the case.

In the light of the aforesaid facts and the period of detention suffered by the petitioners, we are inclined in granting bail to the petitioners.

Accordingly, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the

satisfaction of the learned Chief Judicial Magistrate, Malda and on condition that while on bail, they shall remain within the jurisdiction of English Bazar Police Station and shall provide the address where they shall reside to the Investigating Agency as well as the Court below and shall meet the Officer-in-Charge of the English Bazar Police Station once a week until further orders and they shall also not leave the said Police Station, except for the purpose of investigation and/or for attending Court proceedings and on further condition that the petitioners shall appear before the Trial Court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail, being CRM No. 6769 of 2020, is disposed of.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this court.

**(Suvra Ghosh, J)**

**(Joymalya Bagchi, J)**

