

29.09.2020
Court No. 8
Item No.13
(D/L)
abhar/bdatta

CRM 7188 of 2020
in
CRAN 1 of 2020
(Via Video Conference)

(allowed) In Re: An application for Bail under Section 439 of the Code of Criminal Procedure in connection with Sagardighi P. S. Case No. 163 of 2018 dated 04.05.2018 under Sections 341/325/326/307/34 of the Indian Penal Code and added Section 302 of the Indian Penal Code.
and

In the matter of: Kismat Sk. @ Md. Kismat

..... Petitioner

Mr. Anisur Rahaman.

.....for the Petitioner

Mr. M. Sur.

Mr. Aniket Mitra.

..... for the State

Ms. Sonali Das.

....for the defacto complainant

The learned advocate for the petitioner undertakes to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up.

The application being CRAN 1 of 2020 is accordingly disposed of.

The learned advocate for the petitioner submits that the petitioner is in custody for 550 days in connection with the aforesaid case whereas two of co-accused have already been granted bail on 4th September, 2020 in C.R.M. 6266 of 2020. It is further submitted that the petitioner stands on the same footing as that of the co-accused and, therefore, is entitled to bail on the ground of parity.

The learned advocate appearing for the State opposes the prayer for bail. It is submitted that one of the co-accused being the lady was granted bail as she was not the principal assailant and, therefore, the petitioner cannot seek bail on parity.

The learned advocate appearing for the de-facto complainant opposes the prayer for bail and strongly submits that the petitioner has a direct complicity to the commission of the alleged offence. She has further submitted that the trial had already commenced and three witnesses had already been examined.

After hearing the respective submissions and upon perusal of the order dated 4th September, 2020 passed in C.R.M. 6266 of 2020, we find that apart from Henera Bibi, Uttam Sk. was also a co-petitioner therein and have been granted bail on the ground that they are not the principal assailants and have been in custody for a considerable period of time and there is little possibility of the trial to be concluded in near future.

We have gone through the statement recorded under Section 164 of the Code of Criminal Procedure and we find that both Uttam Sk. and the present petitioner stand on the same footing. The petitioner is also in custody for a considerable period of time. Although three witnesses have been examined but there is least possibility of the conclusion of trial in near future.

In view of the above and solely on the ground of parity, we allow the prayer for bail.

The petitioner, namely, Kismat Sk. @ Md. Kismat shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad on condition that the petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. In the event he fails to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without any reference to this Court.

The application for bail being CRM 7188 of 2020 is allowed.

(Hiranmay Bhattacharyya, J)

(Harish Tandon, J.)