

CRM 7521 of 2020
with
CRAN 1 of 2020
(Via Video Conference)

In re : An application for bail under Section 439 of the Code of Criminal Procedure in connection with Panskura P.S. Case No. 294/2016 dated 23.06.2019 under Sections 395/397/412 of the Indian Penal Code adding Sections 412/120B of the Indian Penal Code.

In the matter of : **Sk. Kalam @ Akbar @ Abdul Kalam**
..... petitioner

Mr. Sekhar Mukherjee
....For the petitioner

Mr. P. K. Datta, APP
Mr. Santanu Deb Roy
.....For the State

The petitioner undertakes 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 petitioner renews the prayer upon it being rejected on several occasions since 2017.

According to the petitioner, what weighed with this Court in rejecting the petitioner's initial prayer for bail was that the driver and the helper of the relevant truck had identified the petitioner. The petitioner submits that neither the driver nor the helper were present in Court at the time of trial to identify the petitioner in Court. In such a scenario, the petitioner says that the likelihood of the petitioner's conviction is remote and the

petitioner should be released from custody since he has spent nearly four years and a half there.

While dealing with matters of the present kind and the arguments put forth on behalf of the accused, the Court should be aware of the ground realities. Here is a case of a truck being waylaid in a highway. The driver and the helper apparently identified the petitioner at the T.I. Parade. But it may be too much to expect the driver and the helper to remain in attendance in Court over an uncertain activity which is a criminal trial in preference to doing their bit and earning for the family. It is possible that a driver and a helper, who are not ordinarily residents of the State, may not be able to make it to the trial Court on a particular date. But merely because the persons who identified the petitioner were absent on a particular date, does not imply that the case against the petitioner falls or the petitioner is entitled to immediate bail.

For the reasons aforesaid, the prayer for bail is rejected.

CRM 7521 of 2020 and the interim application therein are disposed of.

(Arijit Banerjee, J.)

(Sanjib Banerjee, J.)