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CRM 9701 of 2020
(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore P.S. Case No.116 of 2020 dated 03.02.2020 under Sections 302/201/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

And

In the matter of: Mojahar Biswas

....Petitioner.

Mr. Sekhar Kr. Basu, Sr. Adv.

...for the petitioner

Mr. N. Ahamed
Ms. A. Gaur

...for the State.

It is submitted on behalf of the petitioner that he has been falsely implicated in the instant case due to suspicion. He further submits that petitioner is not an accused in the earlier case registered with regard to murder of a relation of the deceased.

Learned lawyer for the State submits that one M. Sekh and six others are accused in the murder of one Babu Mondal, brother of the deceased Raihan. They conspired with petitioner and others, who are professional killers, to do away with the deceased. Deceased had told his wife that he would be meeting the petitioner and others.

We have considered the materials on record. We note that the FIR was registered after two days. Apart from the statement of the wife of the deceased that the petitioner is one of the persons who would be present at the place of occurrence, there is no independent witness that the deceased was last seen with the petitioner. Thus, version of the de facto complainant requires to be assessed in the light of the other

attending circumstances of the case. That apart, nothing is placed on record that petitioner has criminal antecedents. Under such circumstances, he is also not an accused in the earlier case, registered over murder of Babu Mondal.

In view of the aforesaid factual matrix and the period of detention suffered by the petitioner, we are of the opinion that further detention of the petitioner is not necessary and he may be granted bail but subject to strict conditions.

Accordingly we direct that the petitioner 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 Sessions Judge at Murshidabad at Berhampore subject to 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 and on further condition that the petitioner shall not enter the jurisdiction of district of Murshidabad until further orders except for the purposes of attending court proceedings and shall report to the Officer in charge of the concerned P.S. within whose jurisdiction he shall presently reside once in a week until further orders.

In the event the petitioner 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 further reference to this Court.

The application for bail is, accordingly, allowed.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)