

04-12-2020  
Subrata  
Item no.6  
rejected

IN THE HIGH COURT AT CALCUTTA  
Criminal Miscellaneous Jurisdiction

C.R.M. No.9787 of 2020  
Sujan Mondal  
-vs-  
The State of West Bengal

**In Re:** Application under section 439 CrPC in connection with Thakurpukur P. S. Case No. 20 of 2020 dated January 23, 2020 under sections 302/307/326/324/34 IPC.

|                          |                       |
|--------------------------|-----------------------|
| Mr. Indrajeet Dasgupta   |                       |
| Mr. Francs Samson Correa | ...for the petitioner |
| Mr. Rana Mukherjee       |                       |
| Mr. Kaushik Majumder     | ... for the State     |

The advocate-on-record for the petitioner undertakes to affirm and properly stamp the petition as per the rules within forty-eight hours of resumption of normal functioning of the court. The petition is taken up through video-conference on the basis of such undertaking.

Learned advocate for the petitioner audaciously submits that the petitioner has been falsely implicated in the instant case and that no role can be attributed to the complicity thereof. It is further submitted that the co-accused who stand on the same footing that of the petitioner have got the privilege of pre-arrest by the court below, and that the petitioner should also be treated in this fashion.

Learned advocate appearing for the State producing the case diary opposes the prayer for bail. It is submitted on behalf of the State that the State has challenged the order seeking cancellation of bail where the co-accused were granted a privilege of pre-arrest before this court, and that the matter is still pending. It is further submitted that the victim claimed to be in hospital and was undergoing 117 days' treatment, and that the persons involved are

yet to be apprehended. It is, thus, submitted that since the petitioner's earlier bail application was rejected, there is no changed circumstances warranting a different view to be taken in this regard.

After hearing the respective submissions advanced on behalf of learned counsel for both the parties and on perusal of the materials on record, it is undeniable that the petitioner's previous application for bail was rejected on August 6, 2020. The petitioner intends to take the shelter under the ratio of parity as the co-accused have already been granted the privilege of pre-arrest by the court below. It is also undisputed that the application for cancellation of bail is still pending decision.

After perusing the averments made by the petitioner in the instant bail application and the orders passed on his earlier application for bail, we do not find that it is a fit case for bail whether the petitioner has been able to make out a case to take a different view that was taken by the co-ordinate Bench. Furthermore, the submission made on behalf of the State at one point of time cannot act as a deterrent in disclosing the true and correct facts emerged from the records nor can be treated as sacrosanct for all intent and purposes, since we do not find any materials to enlarge the petitioner on bail.

The application for bail is accordingly rejected at this stage and is hereby dismissed.

[Hiranmay Bhattacharyya, J]

[Harish Tandon, J]

