

22.01.2021
Court No.28
Item No. 47
Krishnendu
Partly Bail

**CRM 398 of 2021
(Via video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re: **Motiur Sk. @ Jhalu @ Matiur Rahaman & Anr.**
Petitioners

Mr. Sekhar Basu, Id. Sr. Adv.
Mr. Jisan Iqbal Hossain

For the Petitioners

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Berhampore Police Station 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.

Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioners are in custody for one year twenty-one days and there are no independent witnesses to the effect that the deceased was last seen together with the petitioners. Further it is only the statement of the wife of the deceased , which has been treated to be the First Information Report, on the basis of which the case has been registered. The version in the F.I.R. is disputed because of the subsequent reports, so prepared, wherein there has been a factual contradiction regarding the identity of the deceased. Mr. Basu

further contends that the petitioners are similarly placed as one Mojahar Biswas, who has been granted bail in C.R.M. 9701 of 2020.

Mr. Ghosh, learned advocate appearing for the State opposes the prayer for bail and draws the attention of the Court to the statements of the witnesses and other relevant materials appearing against the case diary. The learned advocate for the State is apprehensive regarding the conduct of the present petitioners and others so far as the trial of the case is concerned.

We have taken into account the materials on record and the order passed by a Co-ordinate Bench of this Court in CRM No. 9701 of 2020 who was implicated on similar accusations. We are of the opinion that accused/petitioner no. 2, namely Jinnat Ansari @ Jinnat Ansary, is similarly placed with the accused in CRM 9701 of 2020. As such, his prayer for bail is allowed.

So far as the petitioner no.1, Motiur Sk. @ Jhalu @ Matiur Rahaman, is concerned, it has been categorically stated in the complaint that the petitioner no. 1 was involved in an earlier offence with the murder of the brother-in-law of the complainant and as such he is not similarly placed as the accused, who has been granted bail in CRM 9701 of 2020. As such, the prayer for bail of the petitioner no.1, **Motiur Sk. @ Jhalu @ Matiur Rahaman** is rejected.

Accordingly, we direct that the petitioner no.2, **Jinnat Ansari @ Jinnat Ansary**, shall be released on bail upon furnishing

a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad at Berhampore subject to condition that the petitioner no. 2 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 no. 2 shall not enter the jurisdiction of district of Murshidabad until further orders, except for the purposes of attending the court proceedings and shall report to the Officer-in-Charge of the concerned Policed Station within whose jurisdiction he shall presently reside once in a week until further orders.

In the event the petitioner no. 2 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.

With the aforesaid observations, the application for bail, being CRM No. 398 of 2021, is disposed of.

(Tirthankar Ghosh, J)

(Tapabrata Chakraborty, J)