

01.03.2021

Court No.28
rpan / 17

CRM 496 of 2021
(Via video Conference)

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

And

In Re : **Alamgir Mallick @ Md. Alamgir Mullick**
- Petitioner

Mr. Sandip Chakraborty,
Mr. Ashok Das

For the Petitioner.

Mr. Saibal Bapuli,
Mr. Arani Bhattacharyya
For the State.

Leave is granted to the learned advocate-on-record of the petitioner to correct the cause title of the application for bail.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Sankrail Police Station Case No. 1041 of 2016 dated 18.12.2016 under Sections 395/397/412 of the Indian Penal Code.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in the alleged offence. No overt act has been attributed to the petitioner. Co-accused persons, similarly situated with the petitioner, have been enlarged on bail. The trial is in progress and out of fourteen witnesses only nine have been examined. In the said conspectus, further detention of the petitioner, who is in custody for more than four years, is not necessary.

He further submits that independent witnesses have not identified the petitioner on the dock. In support of such contention, he has placed reliance upon the evidence of P.W.2, namely, Daihan Mollah and P.W.7, namely, Alok Pashi.

Mr. Bapuli, learned advocate appearing for the State opposes the petitioner's prayer and submits that the co-accused person, namely, Md. Akbar Ali Mollah, was enlarged on bail since he was not identified in the course of T.I. parade. The petitioner herein has been identified in the T.I. parade and as such, he is not similarly situated with said Md. Akbar Ali Mollah.

We have perused the evidence of P.W.2, namely, Daihan Mollah and P.W.7, Alok Pashi as well as the contents of the T. I. Parade Form and *prima facie*, it appears that there are inconsistencies. Furthermore, the petitioner is languishing in custody for a period of more than four years and there is also no possibility towards early conclusion of trial. In view thereof, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the case.

Accordingly, we direct that the petitioner, namely, **Alamgir Mallick @ Md. Alamgir Mullick**, 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, Howrah.

The petitioner shall attend the trial court on the dates specified for hearing and shall also meet with the Officer-in-

charge, North Port Police Station once a week on and from 8th March, 2021 until further orders.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 496 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J)

(Tapabrata Chakraborty, J)