

10.03.21 In re: An application for bail under Section 439 of the Code of Criminal
(S.R.) Procedure filed in connection with **Dhubulia** Police Station Case
Sl.17 **No.107 of 2020** dated **22.05.2020** under Sections
Ct.28 **341/326/307/302/34** of the Indian Penal Code and Sections **25/27**
of the Arms Act;

And

In re: Tapu Gain @ Toufik Hossain Gain @ Taufik Gain
... petitioner.

Mr. Prabir Majumder ... for the petitioner.

Mr. Madhusudan Sur
Mr. Dipankar Paramanick ...for the State.

Mr. Majumder, learned advocate appearing for the petitioner submits that the allegations levelled against the petitioner are in the abstract. No overt act has been attributed to the petitioner. The petitioner stands at a better footing than his brother, namely, Mannan Gain @ Guin, who has already been enlarged on bail by an order dated 19th October, 2020 passed in CRM No.8033 of 2020. Upon completion of investigation, charge sheet has already been submitted and as such, further detention of the petitioner, who is in custody since 16th august, 2020, is not necessary.

Mr. Sur, learned advocate appearing for the State opposes the petitioner's prayer and submits that the principal accused, namely, Sukchand Gain is still absconding. He further submits that the extent of complicity of the petitioner in the alleged offence is more than that of his brother, namely Mannan Guin @ Guin, who has been enlarged on bail. As such, on the ground of parity, the petitioner cannot claim the relief, as prayed for. He further submits that the petitioner, in fact, is similarly situated with his elder brother, namely, Suman Gain @ Guin, whose prayer for bail was turned down by an order dated 27th

November, 2020 passed in CRM No.8033 of 2020.

We have perused the materials in the case diary, the injury report, the statement of the deceased's wife, as recorded under Section 164 of the Code of Criminal Procedure as well as and the post-mortem report of Sadikul Sk., who had expired. *Prima facie*, we find that the extent of complicity of the Mannan Gain @ Guin is more than that of the petitioner herein and when Mannan Gain @ Guin has already been enlarged on bail, we do not find any justification towards further detention of the petitioner.

Accordingly, the petitioner, namely, **Tapu Gain @ Toufik Hossain Gain @ Taufik Gain** 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, **Nadia** and on a further condition that the petitioner shall meet the officer-in-charge of **Dhubulia** Police Station once in a week on and from 20th March, 2021 until further orders.

While on bail, the petitioner shall not intimidate the witnesses or tamper with the evidence in any manner whatsoever.

In any event, the petitioner fails to comply with the directions without any justifiable cause, the trial court would be at liberty to cancel her bail, without any further reference to this Court.

Accordingly, the application for bail being CRM No.681 of 2021, is, thus, 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.)

