

03.03.2021

Court No.28

rpan / **26**

CRM 713 of 2021

(Via video Conference)

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

And

In Re : **Somnath Mondal**

- Petitioner

Mr. Sujoy Sarkar

For the Petitioner.

Mr. Neguive Ahmed,

Ms. Trina Mitra

For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Labpur Police Station Case No. 125 of 2020 dated 25.09.2020 under Sections 302/34 of the Indian Penal Code.

The learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The entire case is based on circumstantial evidence. Upon conclusion of investigation, charge-sheet has been submitted. However, charge has not yet been framed. A co-accused person, similarly situated, has already been enlarged on bail. In view thereof, further detention of the petitioner, who is in custody for 119 days, is not necessary.

Mr. Ahmed, learned advocate appearing for the State opposes the petitioner's prayer and denies that the person enlarged on bail is similarly situated with the petitioner. He further draws our attention to the statement of a charge-sheeted witness and

submits that the materials would disclose direct involvement of the petitioner in the alleged offence.

Having heard the learned advocates and considering the materials in the case diary, *prima facie*, we find that the extent of complicity of the petitioner is similar to that of one Mr. Mukul Mukherjee, who has already been enlarged on bail. On the ground of parity and since there is no possibility of conclusion of trial in the near future, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the case. However, to instill confidence in the mind of the witnesses, the movement of the petitioner needs to be restricted.

Accordingly, we direct that the petitioner, namely, **Somnath Mondal** shall be released on bail upon furnishing a bond of ₹10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Bolpur, Birbhum and on a further condition that the petitioner shall reside outside the jurisdiction of Bolpur Sub-division, until further orders save and except for attending the Trial Court on the dates specified for hearing and he shall also intimate the address where he would be residing to the Officer-in-Charge of Labpur Police Station.

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. 713 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)