

08.03.2021

Court No.28

rpan / **45**

CRM 767 of 2021

(Via video Conference)

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

And

In Re : **Idrish Khan @ Idrish Ali Khan**

- Petitioner

Mr. Golam Mostafa,

Mr. Samirul Sardar

For the Petitioner.

Mr. P. K. Dutta,

Mr. Pradipta Ganguly

For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Hariharpara Police Station Case No. 141 of 2020 dated 29.05.2020 under Sections 328/302/34 of the Indian Penal Code.

Mr. Mostafa, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The co-accused person, who is similarly situated, had already been enlarged on bail by an order dated 19th November, 2020 passed in CRM 8538 of 2020. Upon conclusion of investigation, charge-sheet has also been filed and as such, further detention of the petitioner, who is in custody for about 218 days, is not necessary

Mr. Ganguly, learned advocate appearing for the State opposes the petitioner's prayer and submits that the materials would disclose the direct involvement of the petitioner in the alleged offence. He is not similarly situated with the co-accused

person, who had been enlarged on bail. In support of his contention, he has drawn our attention to the statements of the witnesses recorded under section 161 of the Code.

We have perused the order dated 19th November, 2020 passed in CRM 8538 of 2020 as well as the materials in the case diary. *Prima facie*, it appears that the extent of complicity of the petitioner is similar to that of the accused person, who had been enlarged on bail. There is also nothing on record to suggest that the petitioner will interfere with the witnesses' evidence or flee from justice. In view thereof, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances. As such, the petitioner's prayer for bail is allowed.

Accordingly, we direct that the petitioner, namely, **Idrish Khan @ Idrish Ali Khan** 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 Chief Judicial Magistrate, Murshidabad at Berhampore.

The petitioner shall attend the trial court on the dates fixed for hearing and in the event he fails to do so, the trial court shall be at liberty to cancel his bail, without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 767 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)