

10.03.2021
Item No.26
Ct.No.28
dc.
Partly Allowed

C.R.M. 769 of 2021
(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Diganta Mondal & Anr.**

... Petitioners.

Mr. Sumanta Chakraborty,
Mr. Sukanta Chakraborty

... For the Petitioners.

Mr. Saibal Bapuli,
Mr. Arani Bhattacharyya

... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Gaighata P.S. Case No. 282 of 2020 dated 12.05.2020 under Sections 341/325/326/307/302/34 of the Indian Penal Code (G.R. No. 860 of 2020).

The learned advocate appearing for the petitioners submits that there is no specific allegation against the petitioners and the same are omnibus in nature. A co-accused person, namely, Shefali Mondal has already been enlarged on bail by the learned sessions court. Upon completion of investigation, charge-sheet has also been filed and as such, further detention of the petitioners, who are in custody for about 300 days, is not necessary.

Mr. Bapuli, learned advocate appearing for the State opposes the petitioners' prayer and submits that the co-accused person who had been enlarged on bail is a lady and only on such consideration, bail was granted. He has

drawn our attention to the statements of witnesses as recorded under Section 164 of the Code as well as the *post mortem* report of the deceased.

We have perused the materials in the case diary including the statements of witnesses as recorded under Section 164 of the Code. It appears that the petitioner no.2 struck the fatal blow and in view thereof, we are not inclined to exercise any discretion in his favour. As such, the prayer for bail of the petitioner no.2, namely, **Shyamal Mondal** is **rejected** at this stage.

However, *prima facie*, the records do not disclose the direct involvement of the petitioner no.1 in the alleged offence. Considering the period of detention and the nature of allegations, we are of the opinion that further detention of the petitioner no.1 is not warranted.

Accordingly, we direct that the petitioner no.1, namely, **Diganta Mondal** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat, North 24-Parganas and on a further condition that the petitioner no.1 shall attend the trial court on the dates specified for hearing.

The application for bail, being CRM 769 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.)