

10.03.2021

Court No.28

Avijit / 28

CRM 771 of 2021 (Via video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Balurghat Police Station Case No.129 of 2020 dated 28.03.2020 under Sections 341/323/325/326 of the Indian Penal Code and subsequently added Section 304 of the Indian Penal Code;

And

In Re : Tapash Pahan @ Tapas

.... Petitioner

Mr. Kaushik Chowdhury,

Ms. Busra Khatun

...for the petitioner

Mr. Binay Panda,

Ms. Puspita Saha

...for the State

Learned advocate appearing for the petitioner submits that the petitioner was implicated in an incident which occurred on 3rd March, 2020 for which a complaint was lodged about 25 days thereafter on 28th March, 2020. The person expired due to the effects of poor condition of his lungs. Upon completion of investigation chargesheet has also been filed and as such further detention of the petitioner, who is in custody for about 111 days, is not necessary.

Mr. Panda, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of witnesses recorded under Sections 161 of the Code of Criminal Procedure. He further submits that from the *post-mortem* report it would be evident that due to the scuffle, the deceased suffered

injuries in his vertebral column and ultimately succumbed to his injuries.

We have perused the materials in the case diary including the statements of witnesses as recorded under Sections 161 of the Code of Criminal Procedure and the *post-mortem* report. *Prima facie*, injuries effected cannot be linked with the cause of the death of the victim. Considering the nature of allegations and the extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the present case.

Accordingly, we direct that the petitioner, namely **Tapash Pahan @ Tapas**, 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, Balurghat and on a further condition that the petitioner shall attend the learned Trial Court on the dates fixed for hearing.

The application for bail being C.R.M. No.771 of 2021 is, accordingly, 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)

