

16.07.2021

Court No.28
Item No.08
(Rejected)

Akd
&
Ab

CRM 1046 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Palashipara Police Station Case No. 79 of 2020, dated 20.04.2020 under Sections 341/447/325/326/307/34 of the Indian Penal Code and adding Section 302 of the Indian Penal Code;

And

In the matter of : **Samar Biswas @ Guye**
...Petitioner

Mr. Amit Singh.

...For the Petitioner

Mr. Tanmoy Kumar Ghosh,
Mr. Arindam Sen.

...For the State.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection Palashipara Police Station Case No. 79 of 2020 under Sections 341/447/325/326/307/34 of the Indian Penal Code and adding Section 302 of the Indian Penal Code.

Indubitably the bail applications filed by the petitioner on earlier occasion were dismissed by this Court and the instant application has been filed seeking renewal of the prayer for bail.

According to the learned Advocate for the petitioner, he has not attributed to the commission of alleged offence and some of the co-accused, who stand on the same footing that of the petitioner, had already been enlarged on bail. It is arduously submitted that the last application for bail was rejected, as the case was at the stage of committing the same for sessions trial with profound belief that it would be done in the near future. Taking advantage of the aforesaid observation the learned Advocate for the petitioner submits that till this time the case has not been committed and, therefore, the petitioner should be released on bail.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the petitioner is one of the principal accused and, in fact, the offending weapon was recovered from the backyard of his

house. However, he could not dispute that the case has not been committed as yet.

After hearing the respective submissions and on perusal of the materials on record as well as the statement recorded under Section 164 of the Code of Criminal Procedure and considering the fact that the role of the petitioner to the commission of an offence at this stage cannot be ruled out, we do not think that it is a fit case where the petitioner should be released on bail.

Accordingly, the prayer for bail is rejected.

However, we showed our anguish over non-committal of the case despite trust and hope being reposed by this Court upon the Trial Court. We, therefore, request the learned Judge in the Trial Court to take utmost care so that the case is committed to trial. We further request the learned Judge to proceed with the trial taking recourse to the law as applicable in the existing circumstances.

The application for bail, being CRM 1046 of 2021, is thus **Dismissed.**

(Harish Tandon, J)

(Subhasis Dasgupta, J.)