

23.03.2021

CRM 1051 of 2021

Court No.28
Item No.94

akd

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 25.01.2021 in connection with Chapra Police Station Case No. 402 of 2020, dated 21.10.2020 under Sections 302/34 of the Indian Penal Code.

And

In the matter of : **Alahamdu Mahaldar.**

...Petitioner

**Mr. Sekhar Kumar Basu,
Mr. Amanul Islam,
Mr. Sourav Mukherjee.**

...For the Petitioner

**Mr. Rana Mukherjee,
Ms. Sujata Das.**

...For the State.

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition / application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Chapra Police Station Case No. 402 of 2020 under Sections 302/34 of the Indian Penal Code.

Mr. Sekhar Kumar Basu, learned Advocate appearing for the petitioner submits that the petitioner is in custody for more than 140 days and he has been falsely implicated in connection with the instant case on the basis of the statement of the co-accused. According to the learned Advocate, there was no relationship between the alleged commission of offence and the principal accused involved in the instant case and on the basis of hearsay evidence the person has been implicated in the instant case. The learned Advocate additionally submits that on any stringent condition the petitioner may be released on bail.

Mr. Rana Mukherjee, learned Advocate for the State opposes the prayer for bail. He draws attention of this Court to the statements of two witnesses, one of whom happened to be the son of the deceased, recorded under Section 164 of the Code of Criminal

Procedure. Learned Advocate also draws attention of this Court to the seizure list, wherefrom it appears that there has been recovery of alleged bloodstain shirt. Learned Advocate adds that the said bloodstain shirt was sent to the serological expert and the opinion of the said expert is still awaiting.

We have heard the submissions so advanced by the respective Counsels and perused the materials including the statements of the witnesses; more particularly the statement of the son of the deceased as also the other materials appearing in the record. On perusal of the same we are of the opinion that except the seizure list no direct evidence is available so far as the present petitioner is concerned.

In view of the above and after considering the period of detention of the present petitioner, we are of the opinion that further detention of the petitioner is unwarranted in connection with the instant case.

Accordingly, The petitioner, *Alahamdu Mahaldar*, shall be released on bail upon furnishing a bond of Rs.10,000 /- (Rupees Ten Thousand), with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Nadia, subject to the condition that the petitioner shall not tamper with the evidence in any manner whatsoever; the petitioner shall not intimidate the witnesses; the petitioner shall meet the Officer-in-Charge of the concerned police station on every alternative day and shall also attend the Court on each day of its listing. It is made clear that failure to attend the Court on a solitary day without any justifiable reason shall disentitle the petitioner to the privilege of bail. It shall be open to the concerned Magistrate/Judge to cancel the bail without any further reference to this Court.

The application for bail, being CRM 1051 of 2021, is thus **allowed.**

(Harish Tandon, J)

(Tirthankar Ghosh,J.)

