

02.03.2021

Item No.1

Ct.No.28

dc.

Rejected

C.R.M. 1303 of 2020

(Via Video Conference)

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

And

In Re : **Nonigopal Bapari @ Pagla**

... Petitioner.

Mr. Soubhik Mitra,
Mr. Nazir Ahmed

... For the Petitioner.

Mr. S. G. Mukherji, Ld. P.P.,
Mr. Neguive Ahmed,
Mrs. Manasi Roy

... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Jagaddal P.S. Case No. 472 of 2017 dated 09.05.2017 under Sections 302/34 of the Indian Penal Code read with Sections 25/27 of the Arms Act, 1959.

Mr. Mitra, learned advocate appearing for the petitioner submits that the petitioner is in custody for more than three years and only one witness till date has been completely examined out of 28 witnesses. The learned advocate further submits that the petitioner is similarly situated with other co-accused persons who have been granted bail on 27.01.2020 in C.R.M. 938 of 2020. The

learned advocate hands over the evidence of PW-1 and emphasises that the vital blow was inflicted on the deceased by another accused person and the present petitioner is simply an associate.

Mr. Ahmed, learned advocate appearing for the State opposes the prayer for bail and submits that the accused persons in a conjoint manner have been delaying the trial and no delay can be attributed to the prosecution. By way of a report, he submits that although the witness was present on the last occasion, i.e. on 2nd February, 2021, but one of the accused persons was absent and neither the present petitioner was produced from jail custody nor his lawyer was present.

We have taken into account the materials appearing in the case diary, the role of the present petitioner and certain overt acts attributed to him by some of the witnesses who are yet to be examined. On the earlier occasion, certain time was afforded by keeping this matter pending so that evidence of one Kabita Biswas, who was supposed to be examined as PW-2, could have been completed, but having regard to the present state of circumstances, we are of the opinion that there is non-cooperation from set of accused persons which is contributing to the delay in trial and for betterment of the proceedings, we are of the opinion that it would not be fit and proper to enlarge the present petitioner on bail. As such, petitioner's prayer for bail is **rejected**.

The application for bail, being CRM 1303 of 2020 is,
thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)