

06.04.2021.
131.
as
(Partly
Allowed)

C.R.M. 1437 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hogalberia P. S. Case No.131 of 2019 dated 04.08.2019 under Sections 302/201/34 of the Indian Penal Code.

In the matter of : Animesh Mondal & Anr.

.... Petitioners.

Mr. Sekhar Kr. Basu, Sr. Adv.,
Mr. Amanul Islam,
Mr. Sourav Mukherjee.

...for the Petitioners.

Mr. Neguive Ahmed, Id. A.P.P.,
Ms. Trina Mitra,
Ms. Amita Gaur.

...for the State.

The Advocate-on-record of the petitioners 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.

This is an application for bail in connection with Hogalberia P. S. Case No.131 of 2019 dated 04.08.2019 under Sections 302/201/34 of the Indian Penal Code at the behest of the petitioners.

Mr. Basu learned Senior Advocate appearing for the petitioners submits that the petitioner No.1 is in custody since 4.8.2019 and the petitioner No.2 is in custody since 5.8.2019. According to the learned Senior Advocate, the petitioners have been falsely implicated on the basis of vague allegations and the case is based on circumstantial evidence. Additionally, he

submits that similarly circumstanced accused persons have already been released on bail.

Mr. Ahmed, learned Advocate appearing for the State opposes the prayer for bail and submits that earlier twice the application for bail of the petitioners have been rejected. He draws the attention of this Court to the statement of the mother and the wife of the deceased recorded under Section 164 of the Code of Criminal procedure. He also draws attention of this Court to the two seizure lists and also the leading statement of the petitioner no.1, pursuant to which the dead body was recovered.

We have also perused the materials on record including the statement of the witnesses as also the seizure lists and the recovery memo. We have also scrutinised the role of each of the petitioners in the alleged offence.

Having regard to the incriminating materials appearing against the petitioner no.1, we are not inclined to release the petitioner no.1 viz., Animesh Mondal on bail.

As such, his prayer for bail is rejected.

So far as the involvement of the petitioner no.2 namely, Bikram Mondal @ Rekash @ Rakesh Mondal is concerned, we are of the opinion that he may be enlarged on bail.

Accordingly, we direct that the petitioner No.2, namely, Bikram Mondal @ Rekash @ Rakesh Mondal shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Additional Chief Judicial

Magistrate, Tehatta, Nadia subject to the condition that he shall meet the Officer-in-charge of Hogalberia Police Station once in a week until further orders and on further condition that he shall regularly attend the Court on each and every day of the listing of the matter before the Court and the default on any solitary occasion without any justifiable cause may disentitle him to the privilege of bail granted by this Court without any further reference to this Court and on further condition that he shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

With the aforesaid observation, the application for bail is disposed of.

(Harish Tandon , J.)

(Tirthankar Ghosh, J.)