

24.06.2021

(Via Video Conference)

Court No. 28
Item No. PB-14
nandy/seth

CRM 1709 of 2021

(bail rejected)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 10.02.2021 in connection with Swarupnagar Police Station Case No. 435 of 2018 dated 23.08.2018 under Sections 363/365/325/326/307/364A/120B of the Indian Penal Code (G.R. Case No. 3215 of 2018).

and

In the matter of: **Rahul Adhikary @ Ashok Adhikary**

..... Petitioner

Mr. Arindam Sen, Advocate

Mr. Sandeep Prasad Sen, Advocate

.....for the Petitioner

Mr. Ranabir Roychowdhury, Advocate

Mr. Rudradipta Nandy, Advocate

..... for the State

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 in connection with Swarupnagar Police Station Case No. 435 of 2018 dated 23.08.2018 under Sections 363/365/325/326/307/364A/120B of the Indian Penal Code.

Learned Advocate for the petitioner submits that the petitioner is languishing in jail for a period of 850 days. It is further submitted that the co-accused, namely Hassan Kabir Molla @ Dimple has already been enlarged on bail by the coordinate Bench on October 5, 2020 (CRM 5033 of 2020).

On the other hand, learned Advocate for the State opposes the prayer for bail and submits that the petitioner do not stand on the same footing as that of the said co-accused in view of the

disclosure by a witness in the statement recorded under Section 164 of the Code of Criminal Procedure and the petitioner was also identified in Test Identification Parade.

After hearing the respective counsel and on perusal of the materials-on-record including the statement recorded under Section 164 of the Code of Criminal Procedure as well as the fact that the petitioner was identified in T.I. Parade, we do not think it is a fit case where the petitioner should be enlarged on bail. We further find that the petitioner does not stand on the same footing as that of the co-accused and, therefore, is not entitled to claim bail on the ground of parity.

The prayer for bail is **rejected**.

The application being **CRM 1709 of 2021** accordingly **dismissed**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)