

27.05.2021

Sl. No. 51

Srimanta

Ct. No. – 28

D/L

**CRM/1876/2021
(Via Video Conference)**

In Re : An application for bail under Section 439 of the Code
of Criminal Procedure, 1973.

In the matter of : Sarif Sk. & Anr.

... petitioners.

Mr. Sandipan Ganguly, Adv.,
Md. Golam Nure Imrohi, Adv.,

...for the petitioners.

Mrs. Zareen N. Khan, Adv.,
Mrs. Sreeparna Das, Adv.,
Mr. Pratik Bose, Adv.

...for the state.

The present application under Section 439 of the Code of Criminal Procedure, 1973 has been preferred in connection with Baishnabnagar Police Station Case No. 311 of 2016 dated 2nd May, 2016 under Sections 326/308/304/286/120B of the Indian Penal Code, 1860 read with Sections 3/4 of the Explosive Substance Act, the petitioners have filed the present application.

Mr. Ganguly, Learned Advocate appearing for the petitioners submits that co-accused persons similarly situated have already been enlarged on bail by a Coordinate Bench of this Court by orders dated 1st August, 2019 and 9th September, 2019 passed in the applications being CRM 6918 of 2019 and CRM 8105 of 2019 respectively. Upon completion of investigation charge sheet has already been submitted, however, there is no possibility towards early conclusion of the trial and the petitioners are already in custody for 275 days.

Mr. Khan, Learned Advocate appearing for the State opposes the petitioners' prayer and submits that the

petitioners' earlier prayer was rejected only on 24th October, 2020 and there had been no change in the circumstances thereafter.

We have heard the Learned Advocates appearing for the respective parties and considered the materials on record. It appears that there are 19 witnesses and there is no possibility of conclusion of the trial at an early date. Furthermore, co-accused persons similarly situated with the petitioners have already been enlarged on bail. In view thereof and considering the period of detention, we are of the opinion that further custodial detention of the petitioners is not warranted in the facts and circumstances of the present case.

Accordingly, the petitioners, namely, **Sarif Sk. and Sher Ali** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda subject to the condition that the petitioners shall appear before the Learned Trial Court on the dates specified for hearing.

It is made clear that in the event the petitioners fail to appear before the Trial Court, without any justifiable cause, the Trial Court would be at liberty to cancel the bail, in accordance with law and without any further reference to this Court.

Accordingly, the application for bail being CRM No. 1876 of 2021 is **disposed of**.

All Parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)

(Tapabrata Chakraborty, J.)