

16.07.2021

Court No.28
Item No.32

Saswata

CRM 2730 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 15.03.2021 in connection with Berhampore Police Station Case No. 116 of 2020 dated 03.02.2020 under Sections 302/201/34 of the Indian Penal Code and Sections 25/27 of the Arms Act (G.R.Case no. 388 of 2020);

And

In the matter of : **Motiur Sk. @ Jhalu @ Matiur Rahaman**
...Petitioner

Mr. Sekhar Kr. Basu, Sr. Adv.
MR. Jishan Iqubal Hossain

...For the Petitioner

Mr. Sudip Ghosh
Mr. Bitasok Banerjee
Mr. A.K.Dalla

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with connection with Berhampore Police Station Case No. 116 of 2020 under Sections 302/201/34 of the Indian Penal Code and Sections 25/27 of the Arms Act (G.R.Case no. 388 of 2020).

This is a renewal for prayer of the bail at the instant of the petitioner. The earlier application being CRM 398 of 2021 filed by the petitioner along with one Jinnat Ansari, was dismissed on 22nd January 2021. It transpires from the findings recorded in the said order that the petitioner was involved in an earlier offence with the murder of the brother-in-law of the complainant and therefore, does not stand on the same pedestal with that of the other co-accused who had been enlarged on bail.

According to Mr. Basu, learned Senior Advocate, there is no incriminating material found in the investigation against the petitioner and he has been unnecessarily entangled in the instant case. It is further submitted that an unknown dead body was found

and the entire case is dependent upon the circumstantial evidence and the moment, the other co-accused had been enlarged on bail, it would be unjustified to keep the petitioner in custody.

Learned Advocate for the State opposes the prayer for bail.

It is submitted that the petitioner was actively involved in intimidating witness who happened to be the deceased in an earlier case and on refusal to accede to such threat, the role of the petitioner to the death cannot be ruled out.

After hearing the respective counsels and on perusal of the materials from the case diary and the role attributable to the conduct of the petitioner in commission of the offence and more particularly, the specific observation recorded by the co-ordinate Bench in an earlier order, we think that this is not a fit case where the petitioner should be enlarged on bail.

Accordingly, the prayer for bail of the petitioner is considered and ***rejected***.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)