

09.06.2021

Sl. No.85

Court No.30

BM

CRM 3441 of 2021

(Via Video Conference)

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

And

In the matter of: Sushil Roy

... Petitioner

Mr. Niladri Sekhar Ghosh ... for the petitioner

Mr. Madhusudan Sur, APP

Mr. Dipankar Paramanick ... for the State

The petitioner has for the first time moved this application under Section 439 of the Code of Criminal Procedure for admitting him on bail on the ground of longer detention in jail. It is submitted that the petitioner is in custody for the last 231 days and the charge sheet has been submitted so there is no requirement for the custodial trial of the petitioner.

It is further pointed out that the witnesses are post occurrence witnesses or the witnesses came to the place of occurrence on hearing hue and cry only after the commission of the offence. Accordingly, it is pointed out that the petitioner is absolutely innocent and no way involved in the offence as alleged and he has been falsely implicated due to long standing land dispute between members of the family and he is not recipient of any share in the said land or the property. Accordingly, it is prayed that the petitioner be released on bail.

Now it is pointed out by the learned counsel for the State that the offence has been committed by the petitioner and another accused namely Shibe @ Shibu Fauzdar and said Shibe @ Shibu Fauzdar is still absconding though he had earlier sought to be admitted on anticipatory bail but his prayer for anticipatory bail was rejected on 21.12.2020 passed in CRM 10539 of 2020 by the Coordinate Bench of this Hon'ble Court on consideration of the statement of the case recorded under Section 164 of the Code of Criminal Procedure and other materials on record reveal from the case diary.

Learned counsel for the State invites our attention to the various pages of the case diary in particular pages at 71 to 76 which are the statements of the eye witnesses who have made statement before the learned Judicial Magistrate as eye witnesses of the occurrence.

Having regard to the involvement of the accused petitioner as depicted from the statement under Section 164 of the Code of Criminal Procedure, we are of the view that the offence of such nature stand on a graver footing and we are not inclined to release the accused petitioner on bail. Accordingly, the prayer for bail is rejected.

CRM 3441 of 2021 is dismissed.

Order dated 21.12.2020 passed in CRM 10539 of 2020 is kept with the record.

(Saugata Bhattacharyya, J.)

(Shivakant Prasad ,J.)