

29 27.07.2021
Kole Ct. No.32
allowed

C.R.M. 3701 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Palashipara Police Station Case No. 379 of 2020** dated **23/12/2020** under Sections **302/201/376D** of the Indian Penal Code and under Section 6 of the POCSO Act, 2012.

And

In the matter of: - **Rahidul Mallick & Ors.**

....petitioners.

Mr. Sandipan Ganguly,
Mr. K. Roy,

...for the petitioners.

Mr. N. Ahmed, Ld. APP
Mr. A. Hossain,
Mr. A. Gour,

...for the State.

It is submitted on behalf of the petitioners that the petitioners are in custody for 212 days after being falsely implicated in the alleged offence. The case rests on circumstantial evidence and none of the witnesses has named the petitioners as the alleged miscreants. Investigation is complete and further detention of the petitioners is not necessary.

The State vehemently opposes the prayer for bail and refers to the statements of witnesses recorded under Section 164 of the Code in the case diary.

We have considered the material on record. It, *prima facie*, appears that the case is based on circumstantial evidence. The theory of 'last seen together' as harped upon by the prosecution is to be tested at the appropriate stage of the proceeding. The petitioners are in custody for a considerable

period of time and investigation has concluded upon submission of charge sheet. Considering the material on record as well as the period of detention of the petitioners and as there is little chance of early trial of the case, further detention of the petitioners is not required and they may be enlarged on bail subject to stringent conditions.

Accordingly, we direct that the petitioners 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 Additional Chief Judicial Magistrate, Tehatta, Nadia, and on further conditions that they shall remain outside the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a week until further orders. The petitioners shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)