

03.06.2021
Item no.19
Court No.28
Avijit Mitra

C.R.M. 3705 of 2021 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re : Motiar Rahaman @ Moti Sk. & anr.

.... petitioners

Mr. Arindam Jana,
Mr. Siddhartha Sankar Mondal,
Mr. Akashdeep Mukherjee
....for the petitioners

Mr. Rana Mukherjee,
Ms. Sujata Das
..... for the State

The present application for bail under Section 439 of the Code of Criminal Procedure has been preferred in connection with Katwa Police Station Case No.253/2020 dated 10.09.2020 under Sections 302 and 120B of the Indian Penal Code, 1860 and under Sections 3 and 4 of Explosive Substances Act, 1908 and under Sections 25 and 27 of Arms Act, 1959.

Mr. Jana, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated in an alleged incident which occurred on 9th September, 2020. Five co-accused persons have already been enlarged on bail. The complicity of the said co-accused persons, particularly Ajgar Sk., is similar to that of the petitioners. Upon completion of investigation, chargesheet has already been submitted and as such further detention of the petitioners, who are in custody for about 72 days, is not necessary.

Mr. Mukherjee, learned advocate appearing for the State opposes the petitioners' prayer and submits that the co-accused persons, who have been granted bail, are not similarly situated with the petitioners. He has also drawn our attention to the statements of three eye-witnesses, as recorded under Section 164 of the Code.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, it appears that the extent of complicity of the co-accused person, namely, Ajar Sk. who had already been enlarged on bail is similar to that of the petitioners herein.

Considering the nature of allegations and the period of detention, we are of the opinion that further detention of the petitioners is not warranted in the facts and circumstances of the present case, more so when upon completion of investigation, chargesheet has already been filed.

Accordingly, the petitioners, namely, **Motiar Rahaman @ Moti Sk. and Momijul Haque Saikh @ Momin Sk.**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), each with two sureties of the like amount each, one of whom must be local, to the satisfaction of the Learned Additional Chief Judicial Magistrate, Katwa, Purba Bardhaman.

The petitioners shall remain outside the jurisdiction of Katwa Police Station, save and except for attending the learned Trial Court on the dates specified for hearing and for meeting

the Officer-in-Charge, Katwa Police Station, once a week on and from 8th June, 2021 until further orders.

The petitioners shall also intimate the address where they would be residing to the Officer-in-Charge, Katwa Police Station within a week from date.

While on bail, the petitioners shall not intimidate witnesses and/or tamper with the evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with any of the aforesaid directions, without justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail, without any further reference to this Court.

The application for bail being C.R.M. No.3705 of 2021 is, accordingly, 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.)