

13.08.2021

CRM 3970 of 2021

court no. : 28
Item no. : PB-15
matter : 439
status : rejected
transcriber : nandy

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 07.06.2021 in connection with Domkal Police Station Case No. 29 of 2020 dated 12.01.2020 under Sections 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act. (G.R. Case No. 137 of 2020)

and

In the matter of: **Tomirul Sk. @ Tamirul Sk.**

..... Petitioner

Mr. Somnath Adhikary, Advocate

..... for the Petitioner

Mr. Saibal Bapuli, Advocate

Mr. Soumik Ganguly, Advocate

..... for the State

The petitioner has filed the instant application for bail in connection in Domkal Police Station Case No. 29 of 2020 dated 12.01.2020 under Sections 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

The learned Advocate for the petitioner submits that the earlier application for bail filed by the petitioner was rejected by this Court but the co-accused who stand on the same footing that of the petitioner, had been enlarged on bail.

The State opposes the prayer for bail.

We had an occasion to peruse the order dated January 8, 2021 passed in CRM 148 of 2021 wherein another accused namely Ripon Mondal was granted bail with the categorical finding that the complicity to the commission of an offence has not been found prima facie from the materials available in the case diary. The earlier application for bail was taken up by the Court at the later point of time and the same plea was raised

that once an co-accused has enlarged on bail, the petitioner stand on the same footing, should also be released on bail. There is a categorical finding in the earlier order that the petitioner does not stand on the same footing that of the co-accused who has been enlarged on bail and such finding stares at the face of the petitioner even in the instant application.

We do not find any changed circumstances subsequent to the rejection of the earlier application, more particularly, that the offending weapon was recovered from the leading statement of the petitioner and, therefore, admissible under Section 27 of the Evidence Act.

Thus, the prayer for bail is **rejected**.

The application being **CRM 3970 of 2021** is accordingly **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)