

**CRM 4168 of 2021**  
**(Via Video Conference)**

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 1010 of 2020 dated 27.10.2020 under Sections 304/34 of the Indian Penal Code.

- A n d -

In the matter of : Md Mobarak and another

.... Petitioners.

Mr. Amitabha Karmakar,  
Mr. Arup Kumar Bhowmick,

... For the Petitioners.

Mr. Madhusudan Sur, A.P.P.,  
Mr. Dipankar Paramanick

... For the State.

The petitioners have been charged with commission of murder. The victim was a railway employee. The petitioners say that they have no role to play in the death of victim. They have been falsely implicated.

We have seen the material on record. There is no eye witness. In fact, no statements of witnesses are there in the case diary except the statements of the two accused persons recorded under Section 161 of the Cr.P.C.

The petitioners are in custody for about 290 days. *Prima facie*, there does not seem to be material in the case diary which incriminate the petitioners.

On an overall assessment of the material on record and the possible extent of complicity of the petitioners in the alleged offence and keeping in mind that charge-sheet has already been submitted

upon completion of investigation, we are of the view that further custodial detention of the petitioners is not necessary.

Accordingly, we direct that the petitioners, namely, **Md Mobarak and Jakir Sk** 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 Learned Chief Judicial Magistrate, Malda and on further conditions that they shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight 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.

( **Bivas Pattanayak, J. )**

( **Arijit Banerjee, J. )**