

27.10.2021
02
Ct. No. 08
Sdas, AJ.

Allowed

**C.R.M. 4761 of 2021
(Via Video Conference)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhaniakhali Police Station Case No. 94 of 2021 dated 04.05.2021 under Sections 143/448/341/325/326/307/302/354/34 of the Indian Penal Code.

And

In Re : Shyam Sundar Sarkar @ Shyam Sarkar.
..... petitioner.

Mr. Sekhar Basu, Sr. Advocate,
Mr. Saryati Dutta,
Mr. Ranadeb Sengupta.
.....for the petitioner.

Mr. Swapan Banerjee,
Mr. Suman De.
....for the State.

Learned senior counsel appearing for the petitioner contends that a co-accused, who is on similar footing on the basis of the allegations made in the FIR, has been enlarged on bail. It is further submitted that the petitioner is in custody for about 176 days and the charge-sheet has already been filed. It is also contended that the petitioner is aged about 64 years and there is no scope of the petitioner fleeing justice in the event bail is granted.

Learned counsel appearing for the State vehemently controverts such submissions and, by placing reliance on the statement made under Section 164 of the Code of Criminal Procedure, indicates that the involvement of the present

petitioner was much more serious than that of the person who was enlarged on bail. It is further submitted that in view of heinous nature of the crime, no bail ought to be granted at this juncture. Learned counsel for the State also contends that the authorities are contemplating filing of a supplementary charge-sheet, which might be prejudiced in the event the petitioner is enlarged on bail.

However, we find from the records that, although there are certain incriminating statements against the petitioner, in the statement under Section 164 of the Code of Criminal Procedure, it is a matter of trial as to whether the petitioner was actually involved and, if so, to what extent in the offence, if any committed.

That apart, the petitioner is already in custody for 176 days and is 64 years old. Moreover, the charge-sheet has already been filed by the respondent authorities. Although the respondent State indicates that a supplementary charge-sheet may be filed, merely for that reason the personal liberty of the petitioner cannot be curtailed indefinitely, more so, since trial has not started as yet.

In such view of the matter C.R.M. 4761 of 2021 is allowed, thereby granting bail to the petitioner on the following conditions :-

- i) The petitioner shall furnish a bond of Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties of like amount each, one of whom should be local,

to the satisfaction of Chief Judicial Magistrate at Hooghly;

- ii) The petitioner shall not make out any inducement, threat or promise to any person having direct knowledge of the incident so as to dissuade such person from disclosing the facts before any police officer or Court of law and/or tamper evidence in the meantime;
- iii) The petitioner shall not leave the jurisdiction of the local police station during trial and shall meet the investigating officer and/or the officer-in-charge of the Dhaniakhali police station every fortnight without fail. In default of any of the above conditions, the bail shall automatically stand cancelled and it would be open to the respondent authorities to re-arrest the petitioner.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Rabindranath Samanta, J.)