

29.11.2021
Item No. 06
Bail Granted
Krishnendu

**CRM 4852 of 2021
(Via video Conference)**

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

And

In Re : **Santanu Biswas @ Tukai**

Petitioner

Mr. Soubhik Mitter

Mr. Snehansu Majumder

For the Petitioner

Mr. Madhusudan Sur, Id. A.P.P.

Mr. Dipankar Paramanick

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Dhubulia Police Station Case No. 290 of 2019 dated 16.12.2019 under 341/302/34 of the Indian Penal Code and sections 25(1)(a)(b)/27 of the Arms Act.

Mr. Mitter, learned advocate appearing for the petitioner, submits, upon instruction, that necessary documents under section 207 of the Code of Criminal Procedure were received by the petitioner subsequent to 17th March, 2021 when his prayer for bail was last rejected. From the statements of the witnesses, as recorded under sections 161 and 164 of the Code of Criminal Procedure, it would be explicit that no overt act has been attributed to the petitioner. There are twenty-four witnesses and there is also no possibility towards conclusion of the trial in the near future. The petitioner has suffered incarceration since 16th December, 2021. The principal accused is one Swadesh Das and

out of other six co-accused persons, five have already been granted bail. Considering the nature of allegations and the period of detention, the petitioner may be enlarged on bail on any stringent condition.

Mr. Sur, learned Additional Public Prosecutor appearing for the State, opposes the petitioner's prayer and submits that his prayer for bail was rejected twice earlier on 8th July, 2020 and 17th March, 2021 and there had been no substantial change in the circumstances and in view thereof, the petitioner's prayer for bail needs to be rejected. He further submits that the offending weapon has been recovered on the basis of the leading statement of the petitioner.

Heard the learned advocates appearing for the respective parties and considered the materials on record, including the statements of the witnesses, as recorded under sections 161 and 164 of the Code of Criminal Procedure in which it had been categorically stated that the petitioner left the place of occurrence firing in the blank.

In the said conspectus and considering the period of detention and as there is also no possibility towards early conclusion of the trial, we are of the opinion that further detention of the petitioner, who is in custody since 16th December, 2019, is not warranted and he may be released on bail. However, to instil confidence in the mind of the witnesses and the family members of the deceased, the movement of the petitioner needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Santanu Biswas @ Tukai**, shall be released on bail upon furnishing a bond of Rs. 20,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Chief Judicial Magistrate, Nadia at Krishnagar and on further conditions that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and shall not reside within the jurisdiction of Dhubulia Police Station until further orders. He shall intimate his address where he would be residing to the Officer-in-Charge of Dhubulia Police Station.

It is further directed that the petitioner shall attend the learned trial court on all the dates, as specified for hearing.

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

With the aforesaid observations, the application for bail, being CRM No. 4852 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata

Chakraborty, J)

