

08.12.2021
Sl. No.23
akd
[ALLOWED]

C. R. M. 4988 of 2021

[via video conferencing]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.07.2021 in connection with Khargram Police Station Case No. 144 of 2020 dated 13.05.2020 under Sections 341/302/34 of the Indian Penal Code.

And

In Re: ***Subhash Sk. @ Subhas Sk.***

... .. Petitioner

Mr. Sanjib Kumar Dan
Mr. Saryati Dutta

... .. for the petitioner

Mr. Saibal Bapuli .. Ld. Addl. Public Prosecutor
Mr. Arani Bhattacharyya

... .. for the State

It is submitted on behalf of the petitioner that he has been falsely implicated in the instant case due to previous enmity. Deceased was a notorious criminal and had thrown bombs at his residence resulting in the death of his sister. Nofai Sk. is the principal accused. He is in custody for about 570 days and there is little progress in the trial of the case.

Learned Additional Public Prosecutor opposes the prayer for bail and submits due to prior enmity the principal accused namely, Nofai Sk. and others including the petitioner assaulted the deceased resulting in his death.

We have considered the materials on record including the statements of witnesses. Statement of one Sahanur Sk. was taken on two occasions i.e. 20.05.2020 & 12.06.2020. While it is unclear whether he was an eyewitness from the earlier statement, in the subsequent statement he has specifically attributed the fatal blow to Nofai Sk. It is to be assessed in course of trial whether the other witnesses whose statements were recorded had seen the incident or not. In view of the

aforesaid facts, extent of complicity of the petitioner in the alleged crime and the protracted period of detention suffered by the petitioner on the one hand and the slow progress of trial on the other hand, we are inclined to enlarge the accused/petitioner on bail.

Therefore, the accused/petitioner, namely **Subhash Sk. @ Subhas Sk.**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)