

18.11.2021
Ct No. 28
D/L 44
ab/rrc

C.R.M. 4998 of 2021
(Via Video Conference)

Re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Bankura Police Station Case No. 239 of 2020 dated 11.12.2020 under Sections 302/201/379/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

In Re: **Achinta Halder @ Naku**

... petitioner

Mr. Sudip Chakraborty

... for the petitioner

Mr. Neguive Ahmed
Ms. Amrita Gaur

.... for the State

The learned Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested Bankura Police Station Case No. 239 of 2020 dated 11.12.2020 under Sections 302/201/379/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

Learned advocate for the petitioner submits that he has been falsely implicated in connection with the instant case without any incriminating materials having found against him. It is further submitted that the statement of the eye witness and the other witnesses recorded by the

investigating officer do not reveal the name of the petitioner, but subsequently the police has apprehended him and on his statement, the motorcycle of the deceased was recovered behind the bush. According to the learned Advocate for the petitioner, in absence of any nexus with the commission of an offence pertaining to the murder of the deceased, mere recovery of the motorcycle cannot be used as a vital piece of evidence for such offence.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the statement of the eye witness would reveal that the principal accused, namely, Toton Duwari was accompanied with two other persons and committed murder of the deceased. The present petitioner is one of such associates and the recovery of the motorcycle belonging to the deceased was made on the statement of the present petitioner.

After hearing the respective submissions and on perusal of the materials on record, it is really a shocking state of affairs that despite the petitioner being in custody for nearly 320 days, no T.I. Parade was made to ascertain whether he was a part of the other two associates along with the principal accused, i.e. Toton Duwari. Simply because the motorcycle of the deceased was recovered on the statement of the petitioner, it does not *ipso facto* establish a link for commission of an offence. Furthermore, the charge sheet has already been submitted. One of the co-accused has been enlarged on bail. We, thus, do not find any justification in

the further custody of the petitioner on the basis of the materials found during the investigation. Accordingly, the prayer for bail is allowed.

Accordingly, the petitioner shall 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 Chief Judicial Magistrate, Bankura subject to the conditions that the petitioner shall attend the trial Court on each and every date of hearing of the case unless prevented by sufficient cause and in the event of his failure on any date without justifiable cause, the trial Court would be at liberty to cancel the bail without any further reference to this Court.

The application for bail being **C.R.M. 4998 of 2021** is, **allowed.**

Let the downloaded copy of this order be sent to the Superintendent of Police, Bankura by the learned Public Prosecutor immediately.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)