

30.09.2021
Serial no.117
Dd

(Through Video Conference)

CRM 5363 of 2021

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with **Jangipara** Police Station Case No. **8** of **2021** dated **08.1.2021** under **Sections 147/148/149/323/325/304/504/506/120B** of the Indian Penal Code (corresponding G.R. Case No. 68 of 2021)

-And-

In the matter of : Soleman Mallick

... ..Petitioner

Mr. Himungshu Dey, Id. sr. adv.
Mr. Rafikul Islam Sardar, Advocates
... .. For the Petitioner

Mr. Swapan Banerjee,
Ms. Purnima Ghosh, Advocates
... ..For the State

Mr. Sanjoy Ghosh, advocate
.. ..For the de facto complainant

Petitioner renews the prayer for bail.

Learned senior advocate appearing for the petitioner submits that the last order of rejection is dated August 4, 2021. There are change in circumstances subsequent thereto. He submits that de facto complainant applied for quashing criminal proceedings. He submits that the petitioner is in custody in excess of eight months. The police submitted charge sheet and, therefore, further detention of the petitioner is not required. He submits that the charge sheet was submitted five months ago and the charges are yet to be framed.

State and the de facto complainant are represented.

Learned advocate appearing for the de facto complainant submits that de facto complainant applied for quashing of the case.

Learned advocate appearing for the State draws the attention of the Court to the two orders of rejection of the bail. He draws the attention of the Court to the contents in the case diary. He submits that the petitioner is the main assailant and the same appears from the statements of the eye-witnesses recorded under Section 161 of the Criminal Procedure Code.

The last order of rejection is dated August 4, 2021. In such order of rejection, the co-ordinate Bench found that the earlier order of rejection recorded that there was an overt act of assault at the behest of the petitioner and as such the prayer for bail on the first occasion was rejected. The same situation continues today. There is hardly any change in circumstances subsequent to the order dated August 4, 2021. The filing of a proceeding for quashing of the complaint case at the behest of the de facto complainant is yet to be finally decided.

Consequently, we are not inclined to grant bail to the petitioner.

CRM 5363 of 2021 is **dismissed**.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)