

18.11.2021

Court No.28
Item No.69
(REJECTED)

Saswata

CRM 5560 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Hariharpara Police Station Case No. 320 of 2019 dated 13.07.2019 under Sections 341/302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act;

And

In the matter of : **Amaresh Sk.**

...Petitioner

Mr. Anisur Rahman

...For the Petitioner

Mr. Rudradipta Nandy

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Hariharpara Police Station Case No. 320 of 2019 under Sections 341/302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act.

This is the second application for bail at the behest of the petitioner before this Court. The earlier application for bail being CRM 9978 of 2020 was dismissed by this Court on 15/12/2020.

A plea was taken by the petitioner in the earlier application for bail that two of the co accused had been enlarged on bail and, therefore, the petitioner is entitled to be released on bail on the ground of parity. There is a specific finding returned by the coordinate Bench that the persons who have been enlarged on bail did not stand on the same footing that of the petitioner.

Now, the learned advocate for the petitioner submits that after the rejection of the said application, two other co accused have been enlarged on bail.

Our attention is drawn to the order dated 14/12/2020 passed in CRM 10298 of 2020 filed by Elias Sk. and the order dated 03.08.2021 in CRM 1789 of 2021 filed by Israil Sk. @ Esrail sk. & anr, in order to impress upon us. Such being the changed circumstances and as those co accused stand on the same footing, the petitioner should also be treated similarly.

Our attention is drawn by the learned advocate for the State to the statement of a witness recorded under Section 164 of the Code of Criminal Procedure. We do not find the name of those persons who

have been subsequently disclosed by the said person in her statement. The name of the petitioner ascribed to the commission of offence has also been divulged therein.

Therefore, the petitioner does not stand on the same footing with that of the co accused.

We, thus, do not find any changed circumstances between the interregnum period from the rejection of the first application to the filing of the instant application and, therefore the application for bail is dismissed.

Accordingly, the prayer for bail is ***rejected.***

The application for bail being CRM 5560 of 2021 is accordingly ***dismissed.***

(Harish Tandon, J)

(Rabindranath Samanta,J.)