

C. R. M. 5590 of 2021

[via video conferencing]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.08.2021 in connection with Jagacha Police Station Case No. 220 of 2016 dated 04.11.2016 under Section 365/302/379/201/120B/34 of the Indian Penal Code

And

In Re: **Rafiqul Halder @ Dolon @ Rafikul**

... .. Petitioner

Mr. Mriyunjoy Chatterjee
Mr. Ranjit Singh

... .. for the petitioner

Mr. Neguive Ahmed, Id. APP
Ms. Amita Gaur

... .. for the State

Liberty to correct the cause title and add Section 302 in the array of offences.

Petitioner is in custody for more than five years. It is submitted that the materials on record do not implicate the petitioner in the alleged crime.

Learned Advocate appearing for the State opposes the prayer for bail. He submits that co-accused made a judicial confession implicating the petitioner. Voter's identity card of the deceased was also recovered from the house of the petitioner.

We have considered the materials on record. The confession of a co-accused is a weak piece of evidence. Recovery of the voter's identity card was also not pursuant to the leading statement of the petitioner.

In view of the aforesaid facts and circumstances of the case and the protracted period of detention suffered by the petitioner, that is, over five years and as there is little possibility of the trial concluding in

near future, we are inclined to grant bail to the petitioner however subject to strict conditions.

Therefore, the accused/petitioner 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, Howrah, subject to condition that the petitioner, while on bail, shall remain within the jurisdiction of Jibantala Police Station, South 24 Parganas until further orders except for the purpose of investigation and/or for attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and on further condition that the 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 or commit similar offences in future.

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.)