

08.09.2021  
Item no. 30  
Court No.32.  
S.De.  
(Allowed)

**(Via Video Conference)**

**CRM 5768 of 2021**

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 27.08.2021 in connection with Kaliachak Police Station Case No. 374 of 2015 dated 15.07.2015 under Sections 365/363/302 of the Indian Penal Code.

And

**In the matter of : Sayed Sekh @ Md. Sayed Sekh @ Sayet.**

.....Petitioner.

Ms. Minoti Gomes, Advocate,  
Mr. Kausik Biswas, Advocate,

.....for the Petitioner.

Mr. Swapan Banerjee, Advocate,  
Ms. Purnima Ghosh, Advocate,

.....for the State.

It is candidly submitted by the learned counsel for the petitioner at the outset that the previous two applications of similar nature were rejected by the co-ordinate Benches and the other was not pressed by the petitioner.

However, it is contended that other co-accused for the same offence are already on bail.

That apart, although the complaint was lodged long back, and charge-sheet has been filed, there is no substantial progress in the trial. As such, it is submitted that the petitioner should also be enlarged on bail.

Learned counsel appearing for the State contends that three previous attempts of the petitioner for getting bail did not succeed.

Moreover, learned counsel points out that there was sufficient evidence prima facie reveal against the accused.

However, keeping in view the fact that the other co-accused have been enlarged on bail and considering the advanced age of the petitioner as well as the petitioner being already in custody for 340 days, we prefer to take a lenient view in the matter.

As far as the previous rejections are concerned, we do not find any clear reason on the merits of the prima facie case against the petitioner in the said judgments, to hold that there is any bar in granting bail at this juncture. That apart, the trial has been delayed inordinately for no fault of the petitioner, which should not be a hurdle in the petitioner's liberty being unnecessarily curtailed even after charge-sheet has been filed.

Accordingly, CRM 5768 of 2021 is allowed thereby granting bail to the petitioner namely **Sayed Sekh @ Md. Sayed Sekh @ Sayet** on the following conditions-

- i) The petitioner shall furnish a bond of Rs. 20,000/- with two sureties of equal amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda.

- ii) The petitioner shall not enter the territorial jurisdiction of the Kaliachak Police Station during the trial and, as and when trial begins, shall be present on each of the dates on hearing. In the meantime, prior to commencement of trial, the petitioner shall report every fortnight to the Investigating Officer.
- iii) The petitioner shall not, directly or indirectly make out any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing the relevant facts before any police officer or Court and/or tamper with evidence. The petitioner shall report to the Investigating Officer once every fortnight. It is made clear that, for the limited purpose to meeting the Investigating Officer on prior intimation, the petitioner shall be entitled to enter the jurisdiction of the Kaliachak Police Station and, immediately after reporting to the Investigating Officer, shall again leave such jurisdiction. The bail is granted only subject to the above condition. The petitioner shall also furnish his current address to the Investigating Officer at the earliest.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

**(Bivas Pattanayak, J.)**

**(Sabyasachi Bhattacharyya, J.)**