

CRM No.5726 of 2021
(Via video conference)

29.11.21

(S.R.)
Sl.16
Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Palashipara** Police Station Case No.379 of 2020 dated 23.12.2020 under Sections 302/201/376D of the Indian Penal Code and Section 6 of the POCSO Act;

And

In re: Oliulla Mallick @ Sajijul Mallik

... petitioner.

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Asraf Mandal

... for the petitioner.

Mr. Neguive Ahmed, APP

Ms. Amita Gaur

...for the State.

Mr. Ganguly submitted that co-accused Rahidul Mallick and others are on bail on the same footing. He submitted that the present accused should also be allowed bail and further that, the whole evidence is a circumstantial in nature. According to Mr. Ganguly, there is no scope for tampering of any witnesses and circumstances do not speak false.

Per contra the learned Additional Public Prosecutor, Mr. Ahmed submitted that strong incriminating elements are also in the record. There are materials to show that the present accused threatened the victim, who is a minor and is directly involved in causing death. However, Mr. Ahmed submitted that charge sheet has been filed in this case.

We have heard the rival submissions. On perusal of the case diary, it is found from the statements of witnesses that the victim was threatened by the present petitioner. It is also on record that one of the witnesses stated that the victim was last seen with the present petitioner. It appears that the present petitioner stands on a different footing than the others.

We find strong incriminating elements against the present petitioner. Charge has not been framed. Trial is yet to be started. Considering the nature of allegations and availability of incriminating materials, we are not inclined to allow bail to the present petitioner and the same stands rejected at this stage.

However, the petitioner is at liberty to move application at appropriate stage in a learned trial court. The learned trial court is directed to expedite the trial preferably within six months from the date of receiving a copy of this order.

The application for bail being CRM No.5726 of 2021 is, accordingly, dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)