

CRM 5885 of 2021
(via video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Samad Sk

.....Petitioner

Mr. Arindam Jana
Mr. Siddhartha Sankar Mondal
Mr. Soumyajit Chatterjee

.....for the Petitioner

Mr. Madhusudan Sur, Ld. APP
Mr. Dipankar Paramanick

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Purbasthali P.S. Case No. 80 of 2020 dated 07.04.2020 under sections 302/120B/201/34 of the Indian Penal Code.

Mr. Jana, learned advocate appearing for the petitioner submits that the petitioner's prayer for bail was earlier rejected by a co-ordinate Bench of this Court on 4th February, 2021 specifically observing that complicity of the petitioner is similar to that of one Mohibulla Sk. @ Mou Sk. Subsequent thereto, Mou Sk. was granted bail by the learned Court below on 24th June, 2021. On 5th January, 2021, a co-ordinate Bench of this Court also granted bail to one Nur Nabi Chowdhury, whose complicity was also found to be similar to Mohibulla Sk. @ Mou Sk. In the said conspectus and as there is no possibility towards conclusion of the trial in the near future, further detention of the petitioner, who has already suffered incarceration for about 381 days, may be enlarged on bail on any stringent condition.

Mr. Sur, learned Additional Public Prosecutor appearing for the State vehemently opposes the petitioner's prayer and submits that the order dated 4th February, 2021 passed by a co-ordinate Bench of this Court refusing the prayer for bail of Mou Sk. was not brought to the notice of the learned Court below on 24th June, 2021 when Mou Sk. was enlarged on bail. In view of the gravity of the offences and complicity of the petitioner, he is not entitled to relief as prayed for. Trial has already commenced and one witness has already been examined and the next dates have been fixed on 21st and 22nd December, 2021.

In reply, Mr. Jana submits that there are 23 witnesses and as such, there is no possibility towards conclusion of trial in the near future.

We have heard learned advocates appearing for the respective parties and considered the materials in the case diary. *Prima facie*, it appears that the petitioner is similarly situated with Mohibulla Sk. @ Mou Sk., who had already been enlarged on bail. In view thereof and considering the period of detention already suffered by the petitioner and since there is no possibility towards conclusion of the trial in the near future, we are of the opinion that further detention of the petitioner is not warranted, more so when upon completion of investigation charge sheet has been submitted. However, to instill confidence in the mind of the witnesses, the movement of the petitioner needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Samad Sk.**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount

each, one of whom must be a local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kalna, on further condition that the petitioner shall not leave the jurisdiction of Purbasthali Police Station without the permission of the learned Court below save and except for attending the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 5885 of 2021, is disposed of.

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.)