

27.09.2021

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Ct. No 29

KAUSHIK
(REJECTED)

C.R.M. 6291 of 2021
(via video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Khanakul** Police Station Case No. **191** of **2020** dated **15.08.2020** under Sections 147/148/323/325/302/506/34 of the Indian Penal Code read with Section 2 of the Prevention of Insult to National Honour Act.

And

In Re : Ali Hossain Mallick petitioner

Mr. Niladri Sekhar Ghosh
... for the petitioner

Mr. Neguive Ahmed
Ms. Amrita Gaur
... for the State

Petitioner seeks bail.

Learned advocate appearing for the petitioner submits that, subsequent to the earlier orders of rejection, the petitioner received various documents under Section 207 of the Code of Criminal Procedure (Cr. P.C.) and is, therefore, in a better position to seek bail. He submits that, the de-facto complainant narrated one version of the incident in the First Information Report (FIR). The petitioner is not specifically named in the FIR. He submits that, the de-facto complainant thereafter narrated a different version of the incident in a statement recorded under Section 161 of the Cr. P. C. He submits that, considering the tenure of the detention of the petitioner and the fact that the police submitted charge-sheet, the Court should be pleased to grant bail. He draws the attention of the Court to the fact that other co-accused were granted bail on August 23, 2021.

Learned advocate appearing for the State draws the attention of the Court to the contents of the case diary and submits that the petitioner is named in the FIR and that the name of the petitioner transpires from the statement recorded under Section 161 of the Cr. P. C.

Learned advocate for the petitioner submits that the petitioner stands on the same footing as that of one Azahar Ali @ Samrat, who was granted bail by the Jurisdictional Court.

Considering the materials in the case diary and more particularly the FIR and the Statement of the person, claiming to be the eye witness of the incident, under Section 161 of the Cr. P. C. and considering the fact that the petitioner is named in the FIR, we are unable to grant bail to the petitioner.

We are unable to find that the petitioner stands on the same footing as that of Kashinath Mondal @ Kashi Mondal, who was granted bail on August 23, 2021. There is no material to substantiate that the petitioner is on the same footing as that of Azahar Ali @ Samrat. There is no change in circumstances since the earlier two orders of rejection of bail particularly the last order of rejection dated July 23, 2021.

Accordingly, prayer for bail is rejected and the application being CRM 6291 of 2021 is disposed of.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)

