

09.11.2021
Sl. No.27
akd
[ALLOWED]

C. R. M. 7091 of 2021

[via video conferencing]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.10.2021 in connection with Chapra Police Station Case No. 260 of 2021 dated 02.07.2021 under Sections 302/201/120B of the Indian Penal Code.

And

In Re: **Sabuktagin Biswas**

... .. Petitioner

Mr. Sumanta Das

... .. for the petitioner

Mr. Prasun Kumar Datta

Mr. Santanu Deb Roy

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 130 days. It is further submitted that he has been falsely implicated in the instant case.

Learned advocate appearing for the State opposes the prayer for bail.

We have considered the materials on record. There is dichotomy in the statements of witness namely, Hayder Ali recorded under Sections 161 and 164 of the Code of Criminal Procedure respectively with regard to the presence and role of the petitioner in the alleged crime. While in the statement recorded under Section 161 of the Code of Criminal Procedure name of the petitioner is stated as one of the miscreants, his name is significantly absent in the statement of the witness recorded under Section 164 of the Code of Criminal Procedure before a Magistrate. In view of such dichotomy and the period of detention suffered by the petitioner, we are of the opinion that further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Sabuktagin Biswas**, 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, Krishnanagar, Nadia subject to condition that the said 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.

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**.

(Aniruddha Roy, J.)

(Joymalya Bagchi, J.)