

10.11.2021

CRM 7139 of 2021

**Court No.28
Item No.13
(Allowed)**

Akd

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Santipur Police Station Case No. 164 of 2018 dated 24.05.2018 under Sections 302/34/120B of the Indian Penal Code read with Sections 25/27 of the Arms Act;

And

In the matter of : **Biswanath Biswas alias Biswa.**
...Petitioner.

**Mr. Sayan De,
Mr. Sayan Kanjilal.**

...For the Petitioner.

**Mr. Binay Panda,
Ms. Puspita Saha,
Mr. S. N. Mahapatra.**

...For the State.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Santipur Police Station Case No. 164 of 2018 under Sections 302/34/120B of the Indian Penal Code read with Sections 25/27 of the Arms Act.

Learned Advocate for the petitioner submits that the petitioner has been implicated subsequently in connection with the aforementioned case, though his name did not transpire at the time of lodging the First Information Report. It is further submitted that even at the time of filing of the first and second charge sheet the name of the petitioner was not included therein. It is only at the time of filing of third charge sheet his name transpired therein. He further submits that the similarly circumstanced co-accused had already been enlarged on bail by this Court, which would be evident from the copies of the orders annexed to the instant application for bail and, therefore, the petitioner is entitled to be released on bail on the ground of parity.

Learned Advocate for the State opposes the prayer for bail. It is submitted that though the petitioner stands on the same footing that of the persons, who have been enlarged on bail, but he is absconding for a pretty long time, i.e. three years, and there is every

apprehension that he will misuse the liberty of bail if granted to him.

After hearing the respective submissions of the parties and on perusal of the materials on record, there is no ambiguity that the petitioner stands on the same footing that of the other co-accused, who have been enlarged on bail. Furthermore, the name of the petitioner neither transpired in the First Information Report nor in the first and second charge sheet submitted by the Investigating Officer.

Thus we do not find any justification in not extending the benefit of bail to the petitioner in view of the fact that the similarly circumstanced persons have already been enlarged on bail. The complicity of the petitioner to the alleged offence appears identical and similar to the complicity of the other co-accused, who are on bail.

However, we cannot overlook the fact that despite having shown the name of the petitioner in the third charge sheet submitted by the Investigating Officer, there has been a considerable avoidance of arrest and, therefore, we feel that such benefit of bail should be extended to the petitioner with certain conditions.

Accordingly, the petitioner, **Biswanath Biswas alias Biswa**, shall be released on bail upon furnishing a bond of Rs.10,000 /- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat, Nadia, subject to the condition that the petitioner shall not leave the jurisdiction of the concerned police station, where the case has been initiated, without prior intimation and/or notice to the Inspector-in-Charge of the concerned police station and shall also meet the said Officer once a week.

In default, the Trial Court is at liberty to cancel the bail of the petitioner without further reference to this Court.

The application for bail being **CRM 7139 of 2021** is thus **disposed of**.

(Harish Tandon, J)

(Rabindranath Samanta, J.)

