

08.04.2021

Court No.28

rpan / 12

CRM 9149 of 2020
(Via video Conference)

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

And

In Re: **Amit Biswas & Others**

-Petitioners

Mr. Sekhar Basu, Ld. Sr. Adv.,
Mr. Saryati Datta,
Mr. Antariksha Basu

For the Petitioners

Mr. Madhusudan Sur,
Mr. Aniket Mitra

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Palashipara Police Station Case No. 79 of 2020 dated 20.04.2020 under sections 341/447/325/326/307/34 and 302 of the Indian Penal Code.

Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioner nos.1-4 are in custody for 351 days and the petitioner nos.5 and 6 are in custody for 285 days. It has further been submitted that earlier the bail application of the petitioners were rejected by a co-ordinate Bench of this Court. Additionally, it has been submitted that the case is yet to be committed to the court of sessions. The learned senior advocate emphasises that as there is no scope for the trial being completed in the near future, on any condition the petitioners may be released on bail.

Mr. Sur, learned advocate appearing for the State draws the attention of this Court to the statements recorded under Section 161 of the Code of Criminal Procedure of the eyewitnesses as well as the injured witnesses. He also draws the attention of this Court to the seizure list wherein recovery of offending weapon was made from one of the accused persons. Learned advocate also draws the attention to the post-mortem report as well as the injury reports of the victim.

We have perused the materials in the case diary as also appreciated the contention of the learned senior advocate for the petitioners that there was a counter-case and the dispute was with regard to a landed property.

Having regard to the incriminating materials appearing against the petitioner no.1, we are not inclined to enlarge the petitioner no.1, namely, **Amit Biswas** on bail. Accordingly, his prayer for bail is rejected.

So far as the prayer of petitioner nos.2, 3, 4, 5 and 6 is concerned, although there are *prima facie* materials appearing against them, but having regard to the fact that they do not have any antecedent or previous history of crime and the fact that the manner in which the proceedings are continuing, we are of the opinion that there is no scope of the trial being completed in the near future. In view thereof, we are of the opinion that further detention of the petitioner nos.2-6 is unwarranted in the facts and circumstances of the case.

Accordingly, we direct that the petitioner nos.2, 3, 4, 5 and 6, namely, **Tapan Biswas, Alok Mondal, Mantu Biswas @ Nenghtu, Lalmohan Biswas @ Laltu Biswas** and **Bharat Biswas @ Tela**

respectively, shall be released on bail upon furnishing a bond of ₹10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Tehatta, Nadia subject to condition that the petitioner nos.2-6 shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further conditions that they shall not enter the district of Nadia, except for the purposes of attending the Court and for the purposes of meeting the Officer-in-charge of the Palashipara Police Station once in a week until further orders. The petitioner nos.2-6 shall intimate their address of residence to the Officer-in-charge, Palashipara Police Station.

In the event the petitioner nos.2-6 fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 9149 of 2020, is disposed of.

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

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)