

05.02.2021

Item No.10

Ct.No.28

dc.

Allowed

C.R.M. 10464 of 2020

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Latif Molla & Ors.**

... Petitioners.

Mr. Kallol Kumar Basu,
Mr. Debapriya Samanta,
Mr. Md. Jannat ul Firdous

... For the Petitioners.

Mr. Rudradipta Nandy

... For the State.

Mr. N. G. Sarkar,
Mr. Devranjan Das

... For the *de facto* complainant.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Haroa P.S. Case No. 500 of 2019 dated 22.11.2019 under Sections 341/325/308/506/34 of the Indian Penal Code with adding Sections 302/307 of the Indian Penal Code (G.R. No. 5079 of 2019).

Mr. Basu, learned advocate appearing for the petitioners submits that the alleged incident occurred pertaining to a land dispute. A previous complaint was lodged by the petitioners and as a counterblast, the *de facto*

complainant lodged a complaint on 22nd November, 2019. The petitioners herein surrendered before the learned trial court on 6th October, 2020 and are presently in custody for about 122 days. Upon completion of investigation, charge-sheet has also been filed and as such, further detention of the petitioners is not necessary and they may be enlarged on bail upon imposing strict conditions.

The learned advocate appearing for the State opposes the petitioners' prayer and submits that about eight months after rejection of the prayer for anticipatory bail, the petitioners surrendered. There are materials on record which would reveal the direct involvement of the petitioners in the alleged offence.

The learned advocate appearing on behalf of the *de facto* complainant opposes the petitioners' prayer.

We have perused the statement of the *de facto* complainant, namely Habiba Bibi, recorded under Section 164 of the Code of Criminal Procedure, the *post mortem* report and other documents in the case diary. *Prima facie*, it appears that the extent of complicity of the petitioners is similar to that of the co-accused persons who have already been enlarged on anticipatory bail. Considering the nature of allegations and the period of detention, we are of the opinion that further detention of the petitioners is not necessary.

Accordingly, we direct that the petitioners, namely **Latif Molla, Khatib Molla** and **Kader Molla** shall be released

on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Basirhat, North 24-Parganas and on a further condition that the petitioners shall be present before the trial court on the dates fixed for hearing.

It is also directed that the petitioners shall reside outside the jurisdiction of Haroa Police Station save and except on the dates of hearing before the trial court and shall intimate their address where they would be residing to the Officer-in-Charge of Haroa Police Station.

It is also made clear that the petitioners shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail 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, being CRM 10464 of 2020, is, thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)