

17.03.2021
Item No.37
Ct.No.28
Subha
rejected

C.R.M. 11074 of 2020
(Via Video Conference)

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

In the matter of : **Sk. Illius @ Md. Illiyas** ... Petitioner.

Mr. Ashok Kumar Chowdhury
..... For the Petitioner.

Mr. Madhusudan Sur, APP
Mr. Manoranjan Mahata
... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with S. C. Case No. 568 of 2019 arising out of Baguihati Police Station Case No. 226 of 2019 dated 17-06-2019 under Sections 302/201/34/120B of the Indian Penal Code.

The petitioner prays for bail on the ground of parity. It is submitted that the co-accused namely, Arjina Bibi has been enlarged on bail by the learned Sessions Judge on 15th June, 2020 and the petitioner standing on the same footing should also be enlarged on bail.

Our attention has been drawn to the statements of Arjina Bibi as well as the petitioner recorded under Section 164 of the Code of Criminal Procedure.

After perusing the statement of Arjina Bibi and the finding recorded by the learned Additional Sessions Judge, we find disparity there though the bail was granted to Arjina Bibi on a humanitarian ground, more particularly for the sake of the female child who was in correctional home.

We do not think that this petitioner is entitled to get the advantage of the incorrect finding of the learned Sessions Judge on the ground of parity because of the complicity of the offence attributable to the petitioner and the statements recorded under Section 164 of the Code of Criminal Procedure and as such, prayer for bail of the petitioner is rejected.

With the aforesaid observations, the application for bail being CRM 11074 of 2020 is, accordingly, disposed of.

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

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)