

20.07.2021

Court No.30
rpan **12**

C.R.M. No. 11095 of 2020
(Via video Conference)

In Re : **Santosh Barman**

...Petitioner.

Mr. Kaushik Chowdhury,
Mr. Rishav Singh
Ms. Bursa Khatun
... for the Petitioner.
Mr. Sudip Ghosh,
Mr. Bitasok Banerjee
...for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Banshihari Police Station case no.15 of 2020 dated 03.02.2020 under Section 302 of the Indian Penal Code.

Mr. Chowdhury, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. There is no incriminating material against the petitioner. Upon completion of investigation, chargesheet has also been filed and as such, further detention of the petitioner, who is already in custody for about 532 days, is not necessary.

Mr. Ghosh, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary. He further submits that there are materials on record which clearly indicate the direct involvement of the petitioner in the alleged offence.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary,

the gravity of the offence and the extent of involvement of the petitioner in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is rejected.

Accordingly, the application for bail, being CRM No. 11095 of 2020, is dismissed.

Pursuant to the previous orders passed by this Court reports have been filed, as called for. It appears from the first report dated 11th April, 2021 of the Inspector-in-Charge, Banshihari Police Station, Dakshin Dinajpur that there is neither any mental home in Daskhin Dinajpur district nor in any adjacent districts with facilities to look after the petitioner herein. However, there is only one mental hospital, namely, Berhampore Mental Hospital, Khagra in Berhampore, district – Murshidabad.

A further report has been filed by the medical board dated 15th July, 2021 wherein the board observed *inter alia* that:

‘After detailed history taking, mental status examination and psychological assessment (IQ assessment). Board came to conclusion that Santosh Barman, 44 yrs Male is a case of cerebral palsy with Moderate Intellectual disability (IQ=39).

‘His personal, social and test judgment is impaired. He is not fit to participate in the trial proceeding.’

Let the said reports, as filed, be kept on record.

Considering the above reports, this Court directs the Officer-in-Charge, Banshihari Police Station to take necessary steps to shift the petitioner to Berhampore Mental Hospital, Khagra,

Berhampore, district – Murshidabad within a period of two weeks from date and to file a report before this Court on the returnable date.

It is also directed that the Superintendent of the Balurghat Correctional Home and the Superintendent, Berhampore Mental Hospital, Khagra shall extend all co-operation to the Officer-in-Charge, Banshihari Police Station for compliance of the above direction of this Court.

List the matter for further consideration under the heading **“To Be Mentioned”** on **6th August, 2021**.

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

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)