

**CRM 11109 of 2020
(Via video Conference)**

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

And

In Re : Kalyan Murmu

Petitioner

Mr. Bitasok Banerjee

For the Petitioner

Mr. Binay Panda

Ms. Puspita Saha

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Singur Police Station Case No. 221/2019 dated 31.07.2019 under sections 302/34 of the Indian Penal Code.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. It would be explicit from the contents of the complaint, which was registered as FIR and the statement of the complainant, as recorded under Section 164 of the Code that no overt act had been attributed to the petitioner.

He further submits that one co-accused person, namely, Tariq Aziz had already been granted bail by a co-ordinate Bench of this Court taking into consideration his period of detention and even though it was brought to the notice of the Court that certain weapons were recovered from him. Another accused person, namely, Apurba Rudra, from whom an offending weapon was seized had also been enlarged on bail by the learned court below. The petitioner stands on a better footing since no offending weapon was recovered from him.

He further submits that the petitioner is already in custody for about one year eleven months and there is also no possibility towards conclusion of the trial in the near future.

Per contra, Mr. Panda, learned advocate appearing for the State submits that there are materials on record which reveal the direct involvement of the petitioner in the alleged offence. In support of such contention he has drawn our attention to the statement of one Ikat Ali as recorded under Section 164 of the Code.

He further submits that the delay, which has occasioned towards conclusion of the trial, is not totally attributable to the State. Furthermore, the period of delay stands intervened by a period lost due to the pandemic.

We have heard the learned advocates appearing for the respective parties and considered the materials in the case diary. *Prima facie*, it appears that the petitioner is similarly situated with Tariq Ajij, who has already been enlarged on bail. The petitioner is in custody for about one year eleven months whereas the said Tariq Ajij was granted bail after he suffered detention for a period of about 312 days. There had been no seizure of any offending weapon from the possession of the petitioner. Furthermore, there is no possibility towards the conclusion of the trial in the near future.

In the present pandemic situation and rapid proliferation of the virus, bail should be granted liberally unless custodial interrogation is absolutely necessary [see the order passed by the Hon'ble Supreme Court in *Re: Contagion of Covid-19 Virus in Prisons*].

For the reasons as discussed above, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the case.

Accordingly, we allow this application and direct that the petitioner, namely, Kalyan Murmu, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Chandannagar and on further conditions that the petitioner shall attend the learned trial court on all the dates, as fixed for hearing, and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM 11109 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.

(Suvra Ghosh, J.)

(Tapabrata Chakraborty, J.)