

CRM(DB) No.76 of 2022

Via video conference

11.03.22
(akb)
Sl.8
Ct.32

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

And

In Re : Bapon Sardar

Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Md G.N. Imrohi,
Mr. Susnigdho Bahattacharyya,
Ms. Debapriya Majumder,
Mr. Sreejeet Basu Ray,

...For the Petitioner

Mr. Saibal Bapuli,
Mr. Bibaswan Bhattacharya,

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Jagacha Police Station Case No.220 of 2016 dated 04.11.2016 under sections 365/302/379/201/120B/34 of the Indian Penal Code.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. No specific overt act has been attributed to the petitioner. He has already suffered long incarceration for about 5 years 3 months and 15 days.

He further submits that deprivation of personal liberty without ensuring speedy trial would not be in consonance with the right guaranteed under Article 21 of the Constitution of India.

Drawing our attention to the annexures to the application, he submits that co-accused persons, namely, Rafiqul Halder, Ajibar Laskar and Somnath Sardar had already been enlarged on bail considering their complicity and period of detention suffered and as the petitioner stands on the same footing, he may be granted bail on any stringent condition.

Mr. Bapuli, the learned advocate appearing for the State vehemently opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner. He was also identified in the T.I. parade and his prayer was rejected twice earlier. He further submits that out of 25 witnesses, 16 witnesses have already been examined and the next date is fixed on 5th April 2022 for evidence. Let the report, as produced, be kept on record.

Heard the learned advocates appearing for the respective parties.

Upon assessing the materials in the case diary, *prima facie*, it appears that the role assigned to the petitioner is similar to that of Rafiqua Halder, Ajibar Laskar and Somnath Sardar, who had already been enlarged on bail. Considering the period of detention already suffered by the petitioner and on the ground of parity, we are of the opinion that further detention of the petitioner is not necessary, more so when 9 witnesses are yet to be examined. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Bapon Sardar**, 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 District and Sessions Judge, 5th Court, Howrah with a further condition that the petitioner shall remain within Jibantala Police Station until further orders save and except for attending the learned Court below on all the dates as specified for hearing.

The petitioner 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.

Accordingly, the application for bail, being CRM (DB) No.76 of 2022, is disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)