

25.02.2022
Court No.32
Item No. 17
Avijit Mitra

C.R.M. (DB) No.120 of 2022

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

And

In Re : Somnath Sardar

Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Kaushik Dey

For the Petitioner

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners 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. There is also no possibility towards conclusion of the trial in the near future.

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 and

Ajibar Laskar 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. Sur, the learned advocate appearing for the State vehemently opposes the petitioner's prayer and submits that the confessional statement of the petitioner speaks of his direct involvement in the alleged offence. He was also identified in the T.I. parade and his prayer was rejected twice earlier.

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 and Ajibar Laskar, who had already been enlarged on bail. Considering the period of detention already suffered by the petitioner and as there is no possibility towards conclusion of the trial in the near future, we are of the opinion that further detention of the petitioner is not necessary. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Somnath 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.120 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)