

CRM(DB) No.172 of 2022

Via video conference

11.03.22
(akb)
Sl.11
Ct.32

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

And

In Re : Sankar Mondal

Petitioner

Mr. Shekar Kumar Basu, Id. Senior Advocate,
Mr. Amanul Islam,
Mr. Sourav Mukherjee

...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 Tehatta Police Station Case No.464 of 2021 dated 13.09.2021 under sections 448/325/326/307/34 of the Indian Penal Code and added section 302 of the Indian Penal Code.

Mr. Basu, learned senior advocate appearing for the petitioner submits that there was a hot altercation between the members of the same family and in the same, the petitioner, who is presently about 76 years old, has been falsely implicated. Pertaining to the same incident, a counter-case was lodged by the son of the petitioner on the date of the alleged incident. In the said case, the *de facto* complainant was initially arrested and subsequently enlarged on bail.

He further submits that upon completion of investigation, charge sheet has already been submitted and as such, further detention of petitioner, who is in custody for more than 185 days, may not be necessary and he may be granted bail on any stringent condition.

Mr. Bapuli, learned advocate appearing for the State, however,

opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner. In support of such contention, he has drawn our attention to the statements of the witnesses including the injured witness, as recorded under Section 161 and Section 164 of the Code. He has also drawn our attention to the post-mortem report as well as the seizure list.

Heard the learned advocates appearing for the respective parties and considered the materials in the Case Diary.

Prima facie, there are inconsistencies between the statements of the witnesses, as recorded under Section 164 of the Code and the statements of eyewitness and other independent witnesses, as recorded under Section 161 of the Code. It appears that there was a hot altercation between the members of the same family. Pertaining to the same incident, a counter-case was also lodged against the *de facto* complainant.

Considering the manner in which the offence has taken place, the age of the petitioner, the period of detention already suffered by him and the possible extent of his complicity in the alleged offence, we are of the opinion that his further detention is not necessary. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Sankar Mondal**, 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, Tehatta, Nadia, with a further condition that the petitioner shall not enter the jurisdiction of Tehatta Police Station save and except for attending the learned

Court below on all the dates, as specified for hearing till the trial is over and shall intimate the address where he would be residing to the Officer-in-Charge of Tehatta Police Station.

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.172 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.)