

CRM (DB) 250 of 2022
(via video conference)

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

And

In Re : Samsul Alam

.....Petitioner

Md. Sarwar Jahan
Mr. Maidul Islam Kayal
Mr. Binay Shaw

.....for the Petitioner

Mr. Madhu Sudan Sur, Ld. APP
Mr. Manoranjan Mahata

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Nakashipara P.S. Case No. 286 of 2021 dated 23.06.2021 under Sections 302/201 and added Sections 396/412/413/414/34 of the Indian Penal Code.

On the prayer of Mr. Jahan, learned lawyer appearing for the petitioner, leave is granted to correct the cause-title of the prayer portion of the application.

Mr. Jahan, learned lawyer, submitted that the present petitioner is implicated in two different cases, in one of which he is enlarged on bail granted by the Additional Sessions Court, Nadia. He further submitted that one co-accused Srinibas, who is on the same footing with the present petitioner, has been granted bail by a co-ordinate Bench of this Court. Charge sheet has been filed. Further

custodial detention is not necessary in this case, therefore. On these grounds, Mr. Jahan prays for bail on any stringent condition.

Mr. Sur, learned Additional Public Prosecutor appearing for the State strongly opposed the bail application on the ground that the present petitioner is on different footing from the co-accused Srinibas. Nowshad Ali, being the co-accused, was refused bail by this Court earlier. The present petitioner stands on the same footing. Not only strong incriminating elements are there in the present petitioner, but recoveries are made at the instance of him. From the case diary it appears that not only the present petitioner was on the spot of murder but actively participated too. Considering the nature of offence, he prays that the present petitioner should not be enlarged on bail.

We have heard the rival submissions.

From the statement of witness and the co-accused, we find that the present petitioner had an active role in commission of the alleged offence of murder. The co-accused who is on bail has active complicity in the alleged offence, but the complicity of the present petitioner is more extensive and mobile handset as well as the driving licence of the victim also recovered on the basis of leading statement of the petitioner herein. Therefore, the present petitioner is on different footing from Srinibas.

Considering the incriminating elements against the present petitioner, seriousness of offence, extent of his complicity, we are not inclined to allow bail and the same stands refused at this stage.

The application CRM (DB) 250 of 2022 is, accordingly, dismissed.

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.)