

CRM (DB) 339 of 2022

(via video conference)

Re: An application for bail under Section 439 of the Code of Criminal Procedure.

In the matter of : **Rajkumar Gorai**

..... petitioner

Mr. Abhra Mukherjee

Mr. Sauradeep Dutta

.....**For the petitioner**

Mr. P. K. Datta, Ld. APP

Mr. Santanu Deb Roy

.....**For the State**

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Hura Police Station Case No. 43 of 2021 dated 01.05.2021 under Sections 302/34 of the Indian Penal Code.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that initially the complaint was lodged under Section 302/34 of the Indian Penal Code, but after completion of investigation, charge sheet has been submitted under Section 306/34 of the Indian Penal Code. The petitioner is renewing his prayer. Subsequent to last rejection of his prayer for bail on 7th September, 2021, there has been no progress in the trial. The other co-accused persons have already been enlarged on bail. In the said conspectus, further detention of the petitioner, who has already suffered incarceration for about 313 days, may not

be necessary and he may be enlarged on bail on any stringent condition.

Mr. Deb Roy, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to statements of the witnesses, as recorded under Section 161 of the Code as well as the post mortem report.

Whether the alleged act of the petitioner, *per se*, would constitute an offence under Section 306 of the Indian Penal Code, is an issue to be decided at the appropriate stage of trial, in accordance with law. Considering the nature of accusations and the period of detention already suffered by the petitioner, we are of the opinion that his further detention may not be necessary, moreso when upon completion of investigation, charge sheet has been submitted.

Accordingly, we allow the bail to the petitioner, namely, **Rajkumar Gorai** on 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 Chief Judicial Magistrate, Purulia.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Trial Court below shall be at liberty to cancel his

bail, in accordance with law, without further reference to this Court.

The application for bail, being CRM (DB) 339 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.)