

10.03.2022
Court No.32
Item No. 05
Avijit Mitra

C.R.M. (DB) No.431 of 2022

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

And

In Re : Siyaram Chowrasiya

Petitioner

Mr. Kallol Mondal,
Mr. Souvik Das

For the Petitioner

Mr. Madhusudan Sur,
Mr. Monoranjan Mahato

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Sankrail Police Station Case No.1126 of 2021 dated 15.09.2021 under sections 395/412 of the Indian Penal Code.

Mr. Mondal, learned advocate appearing for the petitioner submits that the ingredients of Section 395 are not attracted against the petitioner. He has been roped in since there was recovery of copper and aluminum from the possession of the petitioner. He further submits that the petitioner is presently suffering from cancer in pancreas. In support of such contention he has produced the medical documents. Let the same be kept on record.

Mr. Mandal further submits that considering the petitioner's present health condition and since upon completion of investigation chargesheet has already been submitted, further

detention of the petitioner, who has already suffered incarceration for about 139 days, may not be necessary.

Mr. Sur, learned advocate appearing for the State opposes the petitioner's prayer and submits that there are documents which clearly reveal the direct involvement of the petitioner in the alleged offence. In support of such contention he has drawn our attention to the seizure list and other documents.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, it appears that the petitioner is suffering from the dreaded disease of cancer. On the said ground, we are of the opinion that further detention of the petitioner who has already suffered incarceration for about 139 days, is not necessary more so when upon completion of investigation chargesheet has been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Siyaram Chowrasiya**, 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 Chief Judicial Magistrate, Howrah and shall attend 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.431 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)