

03.02.2022
Item no.09
Court No.32
Avijit Mitra

C.R.M. 6944 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Mahishadal Police Station Case No.133 of 2019 dated 02.06.2019 under Sections 302/34 of the Indian Penal Code.

And

In Re : Sk. Murselim petitioner

Mr. Ayan Basu,
Mr. Sourav Bera,
Mr. Sumit Routh

....for the petitioner

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick

....for the State

Mr. Basu, learned lawyer for the petitioner submitted that on number of occasions, successive bail applications of the present petitioner were rejected. It is anguish of Mr. Basu that a co-accused, who is similarly situated, is allowed bail with observation that the present petitioner is on a different footing although in respect of complicity in the alleged offence both are similarly situated. It is also submitted by him that there is no possibility of early disposal of the trial in near future.

He further submitted that till now only one witness is examined. There is every possibility that the trial will be delayed. Therefore, Mr. Basu renewed the prayer for grant of bail of the present petitioner.

Per contra, Mr. Sur, learned lawyer appearing for the State submitted that there are very strong incriminating elements against the present petitioner. Bail applications of the present petitioner were rejected five times. He invited our attention to

the order of the Coordinate Bench dated 13.12.2019 wherein bail of the present petitioner was rejected with observation that “*the other co-accused Sk. Akbar upon being released on bail physically assaulted one of the witnesses resulting in serious injuries*”. Trial has already been commenced. Therefore, there is no justification in granting bail to the present petitioner since there is no change in the circumstances.

We have heard the rival submissions, perused the case diary and other materials. From the annexure to the present petition we find that number of times bail applications were rejected. At present trial has already been commenced and witnesses are examined. It is too early to say that the trial will be delayed in the near future. We have perused the case diary and find *prima facie* that the present petitioner is on different footing. We are not able to find any material change in circumstance warranting different consideration for grant of bail.

There are strong incriminating elements different from that of Sk. Akbar, as appears from the case diary, implicating the present petitioner directly in the alleged offence of murder. Considering the seriousness of offence, its gravity, complicity of the present petitioner and the fact that trial is on progress, we are not inclined to allow the bail and the same stands rejected, at this stage.

The application for bail being CRM No.6944 of 2021 is, 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.)