

CRM No.7582 of 2021

Via video conference

05.01.22

(S.R.)

Sl.230

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Sandeshkhali** Police Station Case No.192 of 2020 dated 07/11/2020 under Sections 302/201/34 of the Indian Penal Code;

And

In re: Prosenjit Barik

... petitioner.

Mr. Kallol Kumar Basu

Md. Jannat Ul Firdous

... for the petitioner.

Mr. Madhusudan Sur, APP

Mr. Dipnakar Paramanick

...for the State.

After languishing in custody for 454 days, the instant application is filed by one of the principal accused praying for bail.

The learned lawyer for the petitioner, Mr. Basu submitted a copy of order dated 20.02.2021 passed by the Additional Sessions Judge, Basirhat, North 24-Parganas whereby bail under Section 439 was granted to the father of one of the accused Prosenjit Das. On the strength of this order, Mr. Basu submitted that since co-accused is granted bail, the present petitioner should also be enlarged on bail, more so when charge sheet has been filed and the petitioner is under custodial detention for more than 400 days.

On the other hand, Mr. Sur, learned advocate appearing for the State submitted copies of order dated 30.09.2021 and 6.12.2021 passed by different Coordinate Benches of this Court whereby bail of the other co-accused, namely, Radharani Das, Sabitri Das and Presenjit Das were rejected. Mr. Sur further invited our attention to the statements of various witnesses recorded under Section 161 of Code of Criminal Procedure and submitted that very strong incriminating elements are there against the present petitioner. Other co-accused

are denied bail because of seriousness and gravity of offence. Ashutosh Das, father of Prosenjit Das, was granted bail considering his age, as it appears from the order dated 20.02.2021 passed by the Learned Additional Sessions Judge. It is submitted by Mr. Sur that because of seriousness and gravity of offence and also considering the fact that the dead body of the victim was found from the septic tank belonging to the residential unit of the present petitioner's family he should not be enlarged on bail, even though charge sheet is filed.

We have heard rival submissions and perused the case diary. It appears from the statements of witnesses that the victim visited the residence of the present petitioner's family on the fateful night. There are other statements of witnesses to indicate that the victim was last seen in the residence of present petitioner. Case diary also reveals that dead body of the victim was recovered from the septic tank belonging to the residential unit of the present petitioner's family. *Prima facie*, on the basis of case diary, there appears strong incriminating materials against the present petitioner indicating commission of a very gruesome and grave offence. Therefore, in the conspectus of facts, we are not inclined to exercise our discretion and the bail application stands rejected at this stage.

The application for bail being CRM No.7582 of 2021 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.)