

CRM 7668 of 2021
(via video conference)

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

And

In Re : Lakshmi Kanta Malik @ Laxmi Kanta Malik
@ Laxmi Kanta Malick

.....Petitioner

Mr. Sukanta Chakraborty
Mr. Anindya Halder

.....for the Petitioner

Mr. Swapan Banerjee
Mr. Suman De

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Panchla P.S. Case No. 321/19 dated 13.12.19 under Sections 341/302/34 of the Indian Penal Code.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner was not named in the First Information Report. No specific overt act has been attributed to the petitioner. Upon completion of investigation, charge sheet has also been submitted and as such, further detention of the petitioner, who is in custody for about 735 days, is not necessary. He, however, points out to this Court that the petitioner's prayer was twice rejected. However, subsequent thereto, two accused persons, namely, Shiba Makhal @ Shibu Makhal and Gouranga Bar, had been enlarged on bail by the learned Court below on 17th August, 2020 and 15th January, 2021 respectively. As the petitioner's complicity is similar to that

of the said two accused persons, he may be enlarged on bail on any stringent condition.

Mr. Banerjee, learned advocate appearing for the State, however, opposes the petitioner's prayer and draws our attention to the statements of the witnesses, as recorded under Sections 161 and 164 of the Code. Answering our query, he submits that charges are yet to be framed.

Upon assessing the materials in the case diary, *prima facie*, it appears that the petitioner stands on the same footing with the co-accused persons, namely, Shiba Makhal @ Shibu Makhal and Gouranga Bar, who had already been enlarged on bail. Thus, on the ground of parity and since trial has not commenced as yet and there is also no possibility towards conclusion of the trial in the near future, we are of the opinion that further detention of the petitioner, who is in custody for about 735 days, is not necessary. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Lakshmi Kanta Malik @ Laxmi Kanta Malik @ Laxmi Kanta Malick**, 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 with a further condition that the petitioner shall not enter the jurisdiction of Panchla Police Station until further orders. He shall also intimate the address where he would be residing to the Officer-in-Charge, Panchla Police Station immediately.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and 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 his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 8794 of 2021, 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.)