

CRM No.8151 of 2021

Via video conference

09.02.22 In re: An application for bail under Section 439 of the Code of Criminal
(S.R.) Procedure filed in connection with **Jharkhali** Police Station Case No.2
Sl.289 of 2020 dated 15/01/2020 under Sections 376/506 of the Indian
Ct.32 Penal Code;

And

In re: Durgapada Das @ Durga Das

... petitioner.

Mr. Manjit Singh

Mr. Biswajit Mal

Mr. Gaganjyot Singh

... for the petitioner.

Ms. Sayanti Santra

...for the State.

Mr. Singh, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated due to political rivalry and he has already suffered incarceration for more than two years. There is also no possibility towards conclusion of the trial in the near future.

He further submits that the victim, who is a married lady, lodged a similar complaint against the petitioner and three other persons in the year 2012 and the petitioner has already acquitted in the said proceeding being Sessions Case No.49(08) of 2013 arising out of Basanti Police Station Case No.565 of 2012. It is not believable that a lady, who had earlier lodged a case against the petitioner herein, would again accompany the petitioner to the place of occurrence.

Ms. Santra, learned advocate appearing for the State submits, upon instruction, that the complainant in the present case also lodged the complaint on the basis of which Basanti Police Station Case No.565 of 2012 was initiated. The petitioner was one of the accused therein and he had been acquitted. Let the report, as produced, be kept on record.

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

Prima facie, we find inconsistencies in the statements of the witnesses, as recorded under Section 161 of the code. A similar allegation was levelled against the petitioner in the earlier case being Sessions Case No.49(08) of 2013 in which he has been acquitted. In the said conspectus and since the petitioner had already suffered long incarceration for more than two years and as 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 is not necessary. However, his movement needs to be restricted.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore with a further condition that the petitioner shall not enter the jurisdiction of Jharkhali Police Station until further orders and shall intimate the address where he would be residing to the officer-in-charge of the Jharkhali Police Station immediately.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and shall attend the learned trial court on all the dates specified for hearing.

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.

The application for bail being CRM No.8151 of 2021 is, accordingly, 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.)