

03.01.2022

Court No.32
rpan / 47

C.R.M. 8201 of 2021

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

And

In Re. : **Ashim Ghosh**

- Petitioner

Mr. Avik Ghatak (through v.c.),
Mr. Tanweer J. Mandal (through v.c.),
Mr. Nobiul Islam (through v.c.),
Ms. Somashree Dey (through v.c.)
... for the Petitioner.

Mr. Swapan Banerjee,
Mr. Suman De
... for the State.

Languishing in custody for 207 days, the instant bail application is filed in connection with Bhimpur Police Station Case no.267 of 2020 dated 25.10.2020 under Sections 341/325/326/307/34 of the Indian Penal Code, 1860, praying for bail.

The learned lawyer for the petitioner submitted that as charge-sheet has been filed, further custodial detention is not necessary. One of the co-accused persons has been granted bail by a coordinate Bench of this Court. There was no active participation of the petitioner in the alleged offence but rather the present petitioner is falsely implicated. On this ground, the learned lawyer prayed for bail.

Per contra, the learned lawyer for the State submitted that the present petitioner actively participated in the unlawful assembly and assaulted the victim. He is one of the persons who

caused death to the victim. There are statements leading to recovery of weapons and other incriminating elements which strongly go against the present petitioner. Accordingly, the bail application is opposed.

We have heard the rival submissions and perused the C.D. On perusal of the C.D., it appears that the statement of the daughter of the victim, recorded under Section 164 of the Cr.P.C. and who happens to be an eyewitness, contains strong incriminatory materials against the present petitioner indicating the petitioner's participation in the alleged crime. This apart, the statements of the eyewitnesses indicate active participation of the present petitioner in the alleged offence.

Considering the nature of offence, its gravity and the extent of incriminating materials against the present petitioner, we are not inclined to allow bail at this stage and accordingly, the bail application stands rejected.

The application for bail, being CRM No.8201 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)