

10.01.2022
Sl. No.32
sdas/akd

C. R. M. 8279 of 2021

In Re: An application for bail under Section 439 of the Code of Criminal Procedure :

And

In Re: ***Biplab Halder***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. S. S. Saha

... .. for the petitioner

Mr. Saswata Gopal Mukherjee .. Ld. Public Prosecutor
Mr. Parthapratim Das
Mrs. Manasi Roy

... .. for the State

Languishing in custody for 561 days, the instant application under Section 439 of the Code of Criminal Procedure is filed in connection with Habra Police Station Case No. 202 of 2020 dated 03.05.2020 under Section 302 of the Indian Penal Code praying for bail by one of the principal accused.

Mr. Chakraborty, learned advocate appearing for the petitioner, submitted that earlier bail application was rejected when charge sheet was not filed. Subsequently, charge sheet was filed but there is no prospect of trial as charge has not yet been framed. Although evidences are circumstantial in nature, there is no direct evidence or eyewitness. So there is no question of influencing any witness in any manner. On the basis of such pleas, bail is prayed for.

Per contra, Mr. Das, learned advocate appearing for the State, submitted that there are incriminating elements against the said petitioner and invite our attention to the seizure of offensive weapons on the basis of the statement of the accused persons. He further submitted that other incriminating elements are there against the present petitioner

to show his complicity in the instant crime. He also submitted that after rejection of the earlier bail application of the present petitioner, there is no substantial change in circumstance warranting grant of bail.

We have heard the rival submissions and perused the case diary. It appears that charge sheet has been filed but charge is yet to be framed. There are incriminating elements against the present petitioner but it is also to be kept in mind that no direct evidence is there in this regard except statements of some witnesses. The petitioner is in custody for 561 days and we are not able to find any prospect of immediate consideration of charge.

Accordingly, we allow this application and direct that the petitioner, namely, **Biplab Halder**, shall be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, North 24-Parganas at Barasat with a further condition that the petitioner shall not enter into the jurisdiction of Habra Police Station until further orders.

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

In the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned court below would be at liberty to cancel his bail, in accordance with law, without any further reference to this court.

The application for bail, being CRM 8279 of 2021 is, thus, 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.)