

CRM No.8313 of 2021

Via video conference

02.03.22

(S.R.)

Sl.194

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Barabani** Police Station Case No.76 of 2021 dated 02/05/2021 under Sections 363/365 of the Indian Penal Code, adding Sections 364/302/201/120B/34 of the Indian Penal Code and subsequently charge-sheet has been submitted, being Charge-sheet No.74 of 2021 dated 26/07/2021 under Sections 363/364/365/302/201/120B/34 of the Indian Penal Code;

And

In re: Akash @ Rintu Bauri

... petitioner.

Mr. Apurba Datta

Mr. Gopal Chakraborty

... for the petitioner.

Mr. Sudip Ghosh

Mr. Bitasak Banerji

...for the State.

Mr. Datta, learned lawyer appearing for the petitioner submitted that the present petitioner is falsely roped in this case without having any basis. No eyewitness is there of the alleged incident. The prosecution has implicated the present petitioner in the alleged offence only on the basis of circumstantial evidences. Charge sheet has been filed but no charge is framed till now and there is no possibility of immediate commencement of the trial. The petitioner is in custody for about 323 days. In such case, it is submitted, that the petitioner may be enlarged on bail on any stringent condition.

Mr. Banerji, learned lawyer appearing for the State opposed the bail on the ground that the allegation is brutal murder where the present petitioner has active role. Dead body and other incriminating materials were recovered at the instance of the present petitioner as well as at the instance of the co-accused. Since the allegation is very grave and serious, bail should not be granted at this stage and, accordingly, he strongly opposed the bail application.

We have heard rival submissions and perused the case diary. We

have perused the statement of the present petitioner leading to recovery of incriminating articles. We have also perused the statements of the witnesses recorded under Sections 161 as well as 164 of the Code of Criminal Procedure, from which, *prima facie*, strong incriminating elements are found against the present petitioner. The statements of the witnesses further implicate the present petitioner in the alleged offence. Commitment of the case has been made but charge has not yet been framed. It is not proper to jump to a conclusion right now that the trial would be delayed in future. Considering the seriousness of allegations, its gravity, extent of complicity of the present petitioner in the alleged offence, as it appears, at this stage, we are not inclined to allow the instant application. We, however, direct the Learned Court below to consider the charge within a period of one month from the date of communication of this order and if, charge is framed, the Learned Court below shall conclude the trial preferably within a period of six months thereafter.

With the above observations and directions, the application for bail being CRM No.8313 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.)