

31.01.2022
Court No.32
Item No. 29
Avijit Mitra

C.R.M. 8539 of 2021 (Through video conferencing)

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

And

In Re : Madan Barman & anr.

Petitioners

Mr. Ayan Bhattacharya

...For the Petitioners

Mr. Binay Panda,
Ms. Puspita Saha

...For the State

Languishing in custody for 131 days, the instant application for bail is filed by two accused persons named herein in connection with Balurghat Police Station Case No.538 of 2019 dated 28.10.2019 under Sections 341/448/323/302/506/34 of the Indian Penal Code.

Mr. Bhattacharya, learned lawyer representing the petitioners submitted, that the petitioners are in prolonged custody of 131 days. There is no chance of immediate commencement of trial as chargesheet has been filed only. Other co-accused are on bail by the Coordinate Bench of this Court. Even a Coordinate Bench of this Court granted anticipatory bail to some of the co-accused. On the strength of all these pleadings, Mr. Bhattacharya prays for bail.

Per contra, learned lawyer representing the State Ms. Saha submitted, that those who have been granted anticipatory bail or bail are on different footing from the present petitioners. According

to her, strong incriminating elements are there against the present petitioners. The alleged act is of brutal murder. Considering the seriousness of offence and strong incriminating elements against the present petitioners, bail is opposed by the prosecution.

We have heard the rival submissions and perused the case diary. We find from case diary, particularly from the statements of the witnesses recorded under Sections 161 of the 164 of the Code of Criminal Procedure, strong incriminating elements against the present petitioners which indicate that they have direct complicity in the commission of the alleged offence. As such, they are on different footing from other co-accused persons who are granted bail. Considering the seriousness of the offence, its gravity and extent of complicity of the present petitioners in the alleged offence as appears *prima facie*, we are not inclined to grant bail to the present petitioners and the same stands rejected.

Accordingly, the application for bail, being CRM No. 8539 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)