

03.02.2022
Court No.32
Item No.37
Avijit Mitra

C.R.M. 8669 of 2021 (Through video conference)

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

And

In Re : Khokan Khutia @ Fekon

.... petitioner

Mr. Ayan Basu,
Mr. Sourav Bera,
Mr. Sumit Routh

...for the petitioner

Mr. Nguive Ahmed,
Ms. Amita Gaur

...for the State

The present application for bail has been preferred in connection with Moyna Police Station Case No.235 of 2019 dated 14.10.2019 under Sections 302/120B of the Indian Penal Code.

Mr. Basu, the learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in the alleged incident. No specific overt act has been attributed to the petitioner. He is languishing in custody for 2 years 4 months and trial has not yet commenced and as such, there is also no possibility towards conclusion of the trial in the near future. He further submits that persons similarly situated with the petitioner namely, Anup Kumar Mondal and Bijoy Bhunia have already been granted bail by a Coordinate Bench of this Court on the basis of *prima facie* finding that the allegations are omnibus in nature.

Mr. Ahmed, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary.

He further submits that some co-accused persons are absconding and as such it cannot be said that the delay is attributable to the State.

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

It appears that the petitioner's prayer was last rejected on 10th November, 2020 and since then charges had not yet been framed.

Prima facie, the extent of complicity of the petitioner appears similar with the accused persons who have already been granted bail by a Co-ordinate Bench of this Court. In the said conspectus and considering the nature of accusations and the period of incarceration already suffered, we are of the opinion that further detention is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Khokan Khutia @ Fekon**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, Tamluk with a further condition that the petitioner shall not enter the jurisdiction of Moyna Police Station until further orders. He shall also intimate the address where he would be residing to the Officer-in-Charge, Moyna Police Station immediately.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

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 their bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.8669 of 2021, is 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)