

11.02.2022  
Court No.32  
Item No.04  
Avijit Mitra

**C.R.M.8812 of 2021**

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

And

**In Re : Abdus Samad Sk. @ Thandu**

....

Mr. Golam Mostafa,  
Mr. Samirul Sardar

...for the petitioner

Mr. Madhusudan Sur,  
Mr. Dipankar Paramanick

...for the State

The present application for bail has been preferred in connection with Burwan Police Station Case No.227 of 2021 dated 13.08.2021 under Sections 326/307/302/120B and 34 of the Indian Penal Code and Sections 3/4 of the E.S. Act, 1959.

Mr. Mostafa, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated due to previous enmity. No specific overt act has been attributed to the petitioner. In the incident, the petitioner was injured. Upon completion of investigation chargesheet has been submitted and as such, further detention of the petitioner, who is in custody for 160 days, may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Sur, learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner has criminal antecedent and he is directly involved in the alleged offence. In support of such contention he has drawn our attention to the

statement of the witnesses as recorded under Section 161 of the Code as well as the *post mortem* report.

Mr. Sur further submits that bail applications preferred by two co-accused namely, Rejaul Mir @ Mithu and Samjed Sk. were dismissed by a Coordinate Bench of this Court.

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

*Prima facie*, from the statement of the witnesses it appears that the petitioner was travelling with the victim in a motorcycle. As bombs were thrown he also suffered injuries. However, unfortunately the victim expired. No specific overt act appears to have been attributed to the petitioner. Considering the manner in which the offence has taken place, the nature of accusations, the period of detention already suffered by the petitioner and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention of the petitioner is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Abdus Samad Sk. @ Thandu**, 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 Additional Chief Judicial Magistrate, Kandi, Murshidabad with a further condition that the petitioner shall not enter the jurisdiction of Burwan Police Station until further orders. He shall also intimate the address where he would be

residing to the Officer-in-Charge, Burwan 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 the petitioner's bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.8812 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)**