

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

05.05.2022
Court No.01
Item No.28
Avijit Mitra

CRM (DB) 115 of 2022

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

And

In Re: Hemanta Ray & anr.

...Petitioners

Mr. Arnab Saha

....For the petitioner

Mr. Sourav Ganguly

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Kotwali Police Station Case No.178 of 2021 dated 21.03.2021 under Sections 302/34/120B/174(A) of the Indian Penal Code.

On the prayer of Mr. Saha, learned advocate appearing for the petitioners, the present application so far as the petitioner no.2 is concerned, is dismissed as 'not pressed'.

He submits that the petitioner no.1 has been falsely implicated. No overt act has been attributed to him. Co-accused persons similarly situated with the petitioner no.1 have been granted bail by a Coordinate Bench of this Court. The petitioner no.1 has already suffered long incarceration for about 1 year and 46 days and though upon completion of investigation chargesheet has been submitted, there is no possibility towards early conclusion of the trial.

Mr. Ganguly, learned advocate appearing for the State opposes the prayer of the petitioner no.1 and draws our attention to the statement of the witnesses as recorded under Sections 161 and 164 of the Code and the *post-mortem* report.

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

We have assessed the role attributed to the petitioner no.1 and *prima facie* it appears that he is similarly situated with the persons, who have already been enlarged on bail by an order dated 26th November, 2021 passed by a Coordinate Bench of this Court in CRM no.1036 of 2021. It also appears that no specific overt act has been attributed to the petitioner no.1.

Considering the nature of allegations, the period of detention already suffered by the petitioner no.1 and his complicity in the alleged offence, we are of the opinion that further detention of the petitioner no.1 is not necessary more so when, upon completion of investigation chargesheet has been submitted.

Accordingly, we allow this application and direct that the petitioner no.1, namely, **Hemanta Ray**, 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 local, to the satisfaction of the learned Chief Judicial Magistrate, Cooch Behar.

The petitioner no.1 shall attend the learned Court below on all the dates as specified for hearing.

It is further directed that the petitioner no.1 shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner no.1 fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail, being C.R.M.(DB) 115 of 2022 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)