

11.05.2022

Court No.01
rpan/27

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

CRM (DB) 122 of 2022

In Re: An application under Section 439 of the Code of Criminal Procedure;

And

In Re.: **Swapan Roy**

- Petitioner

Mr. Sabir Ahmed,
Mr. Hillol Saha Podder,
Mr. Sayantan Bhowmik,
Ms. Mousumi Das
... for the petitioner.

Mr. Arun Sarkar
Mr. Saikat Chatterjee
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Falakata Police Station Case No.03 of 2022 dated 02.01.2022 under Sections 376/323/506/34 of the Indian Penal Code.

Mr. Ahmed, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The victim is a married lady. The complaint had been lodged roping all the family members of the petitioner. The co-accused persons have already been granted anticipatory bail. The petitioner surrendered before the learned court below and is presently in custody for 43 days. Upon completion of investigation, charge-sheet has also been submitted and as such, further detention of the petitioner may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Sarkar, learned advocate appearing for the State opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner. In support of his contention he has drawn our attention to the statements of the victim lady recorded under Sections 161 and 164 of the Code, the statements of other witnesses as recorded under Section 161 of the Code and the medical examination report.

Having heard the learned advocates and considering the materials in the case diary, the nature of accusations, the period of detention already suffered and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention is not necessary, more so when upon completion of investigation charge-sheet has already been submitted and as *prima facie* there is no possibility that he would flee from justice.

Accordingly, we allow this application and direct that the petitioner, namely, **Swapan Roy** 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 Additional Chief Judicial Magistrate, Alipurduar with a further condition that he shall not enter the jurisdiction of Falakata Police Station until further order. He shall intimate the address where he would be residing to the Officer-in-charge of the Falakata Police Station immediately.

It is further directed that the petitioner shall appear before the learned Court below on all the dates specified for hearing and

shall not intimidate the witnesses and/or tamper with the evidence in any manner whatsoever.

It is made clear that in the event the petitioner 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 CRM (DB) 122 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.)