

03.01.2022
Item no.41.
Court No.01.
S. De
(Allowed)

(Via Video Conference)

Circuit Bench of Calcutta High Court
at Jalpaiguri

CRM No. 1249 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 20.12.2021 in connection with New Jalpaiguri Police Station Case No. 1000 of 2019 dated 08.11.2019 under Sections 302/201/34 of the Indian Penal Code.

And

In the matter of : Md. Faruk @ Dulal Petitioner.

Mr. Aniruddha Biswas,
Mr. Sourav Sarkar,
.....for the Petitioner.

Mr. Ujjwal Luksom,
Ms. Namrata Dasfor the State.

The allegation is that the petitioner murdered the sister of the defacto complainant.

The petitioner says that he has no connection at all with the alleged offence. He has been in custody for more than two years. There is nothing on record to connect him to the alleged offence.

The State has produced the case diary which we have perused. We have seen the various statements of witnesses recorded under Sections 161/164 of the Code of Criminal Procedure. There is a statement of the petitioner recorded under Section 161 of the Code of Criminal Procedure where he seems

to have confessed committing the alleged offence. Such statement is of no evidentiary value. Apart from that, there is no material on record to even prima facie implicate the petitioner in the alleged offence. Charges are yet to be framed. It is anybody's guess as to when the trial shall commence or conclude.

On an overall assessment of the material on record and the fact that the petitioner has been in custody for more than two years, we are inclined to allow the petitioner's prayer for bail but on stringent conditions.

Accordingly, we direct that the petitioner namely Md. Faruk @ Dulal 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, Jalpaiguri, and on further conditions that the petitioner shall not enter the jurisdiction of New Jalpaiguri Police Station except for attending Court proceedings and shall provide the address where he shall presently reside to the Officer-in-Charge of the concerned police station. The petitioner shall also meet the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Aniruddha Roy, J.)

(Arijit Banerjee, J.)