

D/L. 77
February 2, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 47 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.01.2023 in connection with Crl. Misc. Case No. 04 of 2023 arising out of G. R. Case No. 1137 of 2022 corresponding to Sessions Case No.03 of 2023 (Mathabhanga Police Station Case No. 571 of 2022 dated 21.09.2022 under Sections 302/201 of the Indian Penal Code.

And

In the matter of: Jaharul Mia @ Miah

.... Petitioner

Ms. Suman Sehanabish (Mandal),
Mr. Salok Sah

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Aniruddha Biswas

... for the State

Learned counsel for the petitioner raises several questions as to the chain of circumstances not being convincing enough to clinch the case against the petitioner. That apart, it is argued that the present case against the petitioner does not meet the “last-seen” scenario. That apart, the petitioner was not initially named on the FIR and he is in custody for about 135 days. There are 29 witnesses from the prosecution and the trial is yet to be commenced.

Learned counsel for the State seriously opposes the prayer for bail of the petitioner primarily on the ground that a credible

case has been made out against the petitioner and that the proof of the case against the petitioner depends upon a long chain of events in which each of the links, by way of witnesses, is absolutely vital. As such, even if one of the links of the chain is won over, the prosecution may suffer seriously. Hence, it is argued by the State that the petitioner ought not to be released on bail.

We carefully consider the submissions of the parties. It is seen that the petitioner is in custody for 135 days and there is no chance of the trial being concluded in the near future in view of the several number of witnesses involved. That apart, even without going into the allegations against the petitioner, we find that the logic advanced by the State, that the witnesses may be influenced if bail is granted, would also be a sound logic for keeping the petitioner in custody throughout the period of trial, despite being only an under-trial. As such, the said argument is too generic and absurd and cannot be accepted, particularly in view of the fact that the charge sheet has already been submitted, after conclusion of the investigation, in December, 2022.

In such view of the matter, CRM (DB) 47 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Mathabhanga. The petitioner shall not leave the territorial jurisdiction of the concerned police station, within which the crime was allegedly committed, during the entire period of trial except for making

himself available on each and every date of trial. The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)