

23. 04.07.2023
Court
No.1 Tanmoy Ghosh

Rejected

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 346 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Siliguri Police Station Case No. 1414 of 2020** dated **07.12.2020** under Sections **302/201/34** of the Indian Penal Code, 1860.
And

In the matter of: - **Ismail Sardar**

...petitioner.

Mr. Jaydeep Kanta Bhowmick, Adv.,
Mr. Sayantan Bhowmick, Adv.,
Ms. Rikta Sarkar, Adv.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Arjun Chowdhury, Adv.

...for the State.

Heard learned Advocate for the petitioner and learned Advocate for the State at length.

It is submitted that considering the long detention of the present accused petitioner and also considering the fact that other co-accused persons are still absconding for which trial has been delayed for no fault of the petitioner, the instant application for bail may be considered favourably.

Learned Advocate for the State, however, contends that from the FIR as well as from the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure, 1973, the involvement of the present accused petitioner is *prima facie* prominent.

Considering the entire material placed before us and after hearing learned Advocates for the parties, we find that the involvement of the present accused petitioner is sufficiently prominent at least at this stage.

Such being the position, we are not inclined to exercise our discretion under Section 439 of the Code of Criminal Procedure, 1973 and accordingly the prayer for bail is rejected.

However, the learned Additional Chief Judicial Magistrate, Siliguri, District- Darjeeling, is hereby directed to expedite the process of execution of warrant of arrest as against the other absconding co-accused persons in G.R. Case No.5415 of 2020 and in the event the appearance of those co-accused cannot be secured, learned trial Court is further directed to split up the case in accordance with law and to take effective steps for commitment since charge-sheet is stated to have been filed in the month of February, 2021.

The application for bail being CRM (DB) 346 of 2023 is, accordingly disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)