

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

01.09.2023
Court No.01
Item No. 19
P.P./S.D.

CRM (DB) 511 of 2023

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

And

In Re: Swapan Kumar Roy

...Petitioner

Mr. Biswarup Roy

....For the petitioner

Mr. Abhijit Sarkar

Ms. Sukanya Adhikary

...For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Criminal Misc. Case No. 1423 of 2023 in connection with C.R. Case No. 293 of 2023 arising out of S.I.'s Sl. No. 09/2023-24 dated 20.4.2023 under Section 46(A)(c)/46A(cc)/46AA/48/61 and 61 of Bengal Excise Act.

Mr. Roy, learned Advocate appearing for the petitioner submits that the offences complained of in the FIR are all Magistrate triable offence under the Bengal Excise Act. He further submits that the petitioner has been falsely implicated and as he is suffering incarceration since April 21, 2023, no further useful purpose will be served by retaining him in custody.

Mr. Sarkar, learned counsel appears on behalf of the State and submits that there are several incriminatory documents against the petitioner and, therefore, the prayer for bail should be rejected.

Considering the rival submissions of the parties and the materials placed on record, this Court, *prima facie*, finds that the offence under Section 46AA of the 1909 Act relates to penalty for occurrence of death due to consumption of liquor.

This Court also finds that the POR (Prosecution Offence Report) has been filed before the learned Trial Court. Accordingly, no useful purpose may be served by further incarceration of the petitioner.

This Court directs that the petitioner, namely, **Swapan Kumar 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 Chief Judicial Magistrate, Jalpaiguri with a further condition that the petitioner shall meet the Officer-in-Charge of Excise, Maynaguri Circle, Jalpaiguri once a week.

It is further directed that the petitioner shall also make himself available on all the scheduled dates of the trial and is required not to leave the jurisdiction of the concerned Police Station without the leave of the authorities. The petitioner shall not induce the witnesses or influence them in any manner or tamper with the evidence.

It is made clear that in the event the conditions as stated above are not complied, without justifiable cause, the learned Court below would be at liberty to cancel the petitioner's bail without any further reference to this Court.

With the above observations and directions, the application for bail, being **C.R.M.(DB) 511 of 2023** is **disposed of**.

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

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)