

37.
24-03-2025
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 416 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with English Bazar Police Station Case No.238 of 2024 dated 17-02-2024 under Section 302 of the Indian Penal Code.

- A n d -

In the matter of : Bikash Paswan

.... Petitioner.

Mr. Avinaba Patra,
Mr. Agnik Maulik

... For the Petitioner.

Mr. Bibhaswan Bhattacharya,
Ms. Afreen Begum

... For the State.

Dictated by Apurba Sinha Ray, J.

1. Learned counsel for the petitioner has submitted that the petitioner is in custody for one year one month. The petitioner cannot be convicted under Section 302 of the Indian Penal Code since there are sufficient materials showing that the case should have been initiated under Section 304 of the Indian Penal Code. However, as the investigation is complete and there are 18 charge sheet named witnesses, there is no chance of an early conclusion of the trial. The offence has been committed at the heat of the moment and Section 302 of the Indian Penal Code is not attracted.

2. Learned counsel for the State opposes the prayer for bail. According to him, there are sufficient incriminating materials against the present petitioner. The offending weapon was recovered from the possession of the present

petitioner. The prosecution will adduce at the highest 14 witnesses within a very short span of time.

3. After considering the material on record, we find that there are sufficient incriminating materials against the present petitioner. However, though the investigation is complete and four witnesses have already been examined, the prosecution case cannot be said to have been proved by those witnesses since the defacto complainant and most of the witnesses examined did not support the prosecution case in essence.

4. Considering that there is no chance of an early conclusion of the trial, we are inclined to allow the prayer of the petitioner for bail on certain conditions.

5. Accordingly, we direct that the petitioner, namely, **Bikash Paswan**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Additional District and Sessions Judge, Fast Track Court-2, Malda. The petitioner shall appear before the learned 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 and shall not commit any cognizable offence in any manner whatsoever. While on bail, the petitioner shall remain outside the jurisdiction of English Bazar Police Station and shall appear before the Officer-in-Charge/Inspector-in-Charge of the police station under whose jurisdiction he shall be residing while on bail, once in a week, until further orders. The petitioner shall, through his learned advocate, inform the learned trial Court, English Bazar Police Station and the jurisdictional police station under whose jurisdiction he shall be residing while on bail, his current local address.

6. In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

7. The application for bail is, thus, **allowed**.

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

9. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)