

19.11.2025

Item No.13

Ct.No.35

dc.

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M. (M) 1873 of 2025

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Thanarpara Police Station Case No. 67 of 2024 dated 16.03.2024 under Sections 302/34 of the Indian Penal Code, 1860 (G.R. Case No. 306 of 2025).

And

In Re : **Kamal Sk.**

... Petitioner.

Mr. Jaydeep Biswas,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Mr. Kaushik Ghosh,
Mr. Gourav Roy

... For the Petitioner.

Ms. Manisha Sharma,
Ms. Rita Datta

... For the State.

Mr. Soumya Basu Roy Chowdhuri

... for the *de facto* complainant.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for 1 year 8 months. It has been submitted that earlier, prayer for bail of the present petitioner was rejected. However, having regard to the period of detention of the petitioner and the fact that there is no scope for trial commencing in near future as well as the complicity of the present petitioner and similarly placed accused persons who have been granted anticipatory bail, learned advocate has prayed for bail of the present petitioner on any stringent conditions.

Learned advocate appearing for the State, on the other hand, opposes the prayer for bail and draws the attention of the Court to the statements of the witnesses under Section 161 of Cr.P.C. as well as under Section 164 of Cr.P.C. The main emphasis of the learned advocate for the State is that in the statements of the witnesses who narrated the facts before the learned Judicial Magistrate, the name of the petitioner appeared and as such, the present petitioner is differently placed than the other accused persons who have been granted anticipatory bail being Selim Mandal @ Selim Mondal, Swapan Mandal @ Habibur Mondal and Sahadul Mondal @ Saheb Ali @ Chand Ali.

It has also been submitted on behalf of the State that earlier the bail application of the present petitioner was rejected and exhaustive reasons were offered by the Hon'ble High Court.

Learned advocate for the State submits that all efforts are being taken by the police authorities to trace out the absconding accused persons and the prosecution would put in efforts for commencing the trial.

Learned advocate appearing for the *de facto* complainant also opposes the prayer for bail of the petitioner and submits that earlier bail application of the petitioner was rejected.

I have considered the submissions of the learned advocate for the petitioner and the learned advocates for the State and the *de facto* complainant and I find that the same

witnesses whose statements were recorded under Section 161 of Cr.P.C. and under Section 164 of Cr.P.C., do not state the name of the accused persons uniformly. There is difference in divulging the name of the accused persons in the statements recorded under Section 161 of Cr.P.C. and under Section 164 of Cr.P.C. by the same witness. Some of the accused persons have been granted anticipatory bail.

Having considered the witnesses on whom the prosecution intends to rely on and the fact that some of the accused persons have been granted anticipatory bail only on the reason that their names did not appear in the statement under Section 164 of the Code of Criminal Procedure, I am unable to accept the contention advanced on behalf of the State. As such, the prayer for bail of the petitioner is **allowed**.

Accordingly, the petitioner viz., **Kamal Sk.** shall be released on bail upon furnishing bond of Rs.20,000/-, with two sureties of Rs.10,000/- each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Tehatta, Nadia.

If on bail, the petitioner shall stay outside the jurisdiction of learned Additional Chief Judicial Magistrate, Tehatta except for the purposes of attending the court. The petitioner shall also inform the address to the learned Additional Chief Judicial Magistrate, Tehatta as also to the Inspector-in-Charge, Tehatta Police Station.

The learned Additional Chief Judicial Magistrate, Tehatta or the learned Trial Court would, if it feels

necessary, impose other conditions as it deems fit and proper.

The application for bail, being CRM (M) 1873 of 2025, is, thus, disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)