

**Cri. Misc. Case No. 681 / 2022**

**Order No. 02 dtd. 01.11.2022**

The instant application under section 439 of Cr.P.C. filed by accused / petitioner, namely Sk. Mobasar Ali @ Sari, in connection with Chanditala P.S. Case No. 370/2022 dated 02.08.2022 under sections 341/325/307/34 of I.P.C., is taken up for hearing.

Heard the Ld. Advocate for the petitioner, who submits that no application under section 439 of Cr.P.C. in respect of this accused person has been rejected or is pending before any higher court of law. He further submits that this is a case under sections 341/325/307/34 of I.P.C. and charge sheet has been submitted against the petitioner. He further points out that there is report of citi scan of brain along with the record, from which it transpires that there is no significant abnormality was found by the doctor. He also submits that as charge sheet has been submitted, there is no necessity for detention of the petitioner for the purpose of investigation. He also points out that this is not a case fit for custodial trial. He prays for bail of the petitioner on any condition.

Ld. P.P.-in-charge opposes the prayer for bail relying upon the materials in C.D.

Perused the application under section 439 of Cr.P.C., L.C.R. and C.D.

It transpires from F.I.R. that there is allegation against the petitioner that he has assaulted the victim Saima Begum with the help of a 'tasla'. It appears from seizure list that weapon of offence has been recovered from the place of occurrence itself. It further transpires from record that charge sheet has been submitted in connection with this case against the petitioner. It is apparent from record that petitioner was brought under arrest in connection with this case on 03.08.2022. Since charge sheet has been submitted, further detention of the petitioner is not required for the purpose of investigation. I am of the view that this is not a fit case for custodial trial.

In view of the above, I am inclined to allow the prayer for bail of the petitioner. Hence, prayer for bail of the petitioner is allowed.

Accordingly, petitioner, namely Sk. Mobasar Ali @ Sari, may find bail of Rs.5000/- with two sureties of Rs.2500/- each, subject to the satisfaction of Ld. A.C.J.M., Serampore, on conditions as enumerated under section 438(2) of Cr.P.C.

Instant criminal misc. case is, thus, disposed of. Return L.C.R. and C.D.

Let a copy of this order be sent to the Ld. A.C.J.M., Serampore for information and taking necessary action.

Dictated & corrected by me.

Sd/- (Sri M.K. Rai)

A.S.J.

Sd/- (Sri M.K. Rai)  
Additional Sessions Judge  
1<sup>st</sup> Court, Serampore