

16.04.2020
Sl. No.1
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C. R. M. 2899 of 2020
With
CRAN 1355 of 2020

In Re: An application for bail under section 439 of the Code of Criminal Procedure in connection with G.R. Case no.348 of 2019 arising out of Haldibari Police Station Case no.144 of 2019 dated 27.07.2019 under sections 411/414 of Indian Penal Code, 1860.

And

In Re: **Md. Samiul Islam Saon.**

... .. applicant.

Mr. Dhananjay Banerjee for applicant.

Mr. S. S. Imam ... for State.

Mr. Banerjee, learned advocate appears on behalf of the applicant, who is seeking bail on having had been arrested in connection with G.R. Case no.348 of 2019 arising out of Haldibari Police Station Case no.144 of 2019 dated 27.07.2019 under sections 411/414 of Indian Penal Code, 1860. He submits, the applicant is a Bangladeshi national but that should not stand in the way of granting bail. His client has been in custody for 270 days. The stolen articles have been recovered and copy of seizure list emailed. He relies on **judgement dated 24th July, 2014 (CRM 7665 of 2014)** of a Division Bench of this Court in **Swapna Akhter – Versus – State of West Bengal**. He also relies on **order dated 31st March, 2020** passed by another Division Bench of this Court in, inter alia, **WP 8573(W) of 2018**, which says as follows:-

“It is hereby ordered that all authorities concerned shall abide by the instructions and directions of the High Powered Committee. ADG & IG of Correctional Services shall ensure strict compliance of the directions in paragraph no.2 of the High Powered Committee’s Report dated 27.03.2020.”

Mr. Imam, learned advocate, Additional Public Prosecutor appears on behalf of State. He submits, the case diary has not been received nor does he have instructions.

Directions given in the High Powered Committee's report dated 27th March, 2020 are for giving benefit of **judgment dated 2nd July, 2014** of Supreme Court in **Arnesh Kumar – Versus – State of Bihar (Criminal Appeal 1277 of 2014)** to convicts/undertrials in offences, except those specified. Further additional direction in the alternative is, inter alia, that convicts or undertrial prisoners having residence outside the State may not be considered for release at this stage. This stage is the stage where there is lock down because of pandemic on COVID-19.

The applicant since not resident in the State as being a Bangladeshi national, cannot be considered for grant of bail at this stage. The ratio of **Swapna Akhter** (supra) does not apply to him in the present situation. .

Rejected.

(Arindam Sinha, J.)