

17.06.2019.
Item No.23
(Allowed)
Ab

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

C.R.M. 293 of 2019

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.04.2019 in connection with Dhupguri P.S. Case No. 291/2017 dated 27.08.2017 for committing offence punishable under Sections 341/304/427/34 of the Indian Penal Code;

And

In the matter of : Sumanta Roy. ... petitioner.

Mr. Debajit Kundu. ...For the petitioner.

Mr. Kallol Acharya,
Mr. Sourav Ganguly. ...For the State.

Heard the learned Advocates appearing on behalf of the parties. Perused the case papers.

The petitioner seeks bail in connection with Dhupguri P.S. Case No. 291/2017 dated 27.08.2017 (G.R. Case No. 3619 of 2017) for committing offence punishable under Sections 341/304/427/34 of the Indian Penal Code.

It appears that two persons were lying on the road on an injured condition and were brought to the hospital and were declared dead. A complaint was lodged against several persons including the petitioner and the Investigating Officer recorded the statement of various persons under Section 161 of the Criminal Procedure Code.

It is undeniable that some of the other co-accused persons have already been enlarged on bail by the learned Sessions Judge but the application for bail filed by the petitioner before the learned Sessions Judge was rejected vide order no. 3 dated 12th April 2019. The certified copy of the

said order was annexed to the instant bail application wherefrom it is evident that the petitioner does not stand on the same pedestal than that of the other co-accused. It is further recorded that the petitioner has played an active role in such offence, which swayed the mind of the learned Judge in dismissing the bail application.

We have perused the case diary produced by the learned Advocate for the State. We have also read the statements recorded by the Investigating Officer and cannot persuade ourselves with the findings recorded by the learned Sessions Judge in the said order.

The other co-accused have already been enlarged on bail and merely because one of the person has said that the petitioner took Rs. 20,000/- from the pocket of one of the deceased and kept the same with one Sribash Sarkar, the same was treated as active role of the petitioner. The amount was recovered from Sribash Sarkar, who is already enlarged on bail.

We, therefore, find that it is a fit case where the petitioner should also be enlarged on bail having stood on the same footing as that of the other co-accused.

The petitioner is, therefore, entitled to bail.

The petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of Rs 5,000/-, one of whom must be local, to the satisfaction of learned Sessions Judge, Jalpaiguri, subject to the condition that the petitioner shall meet the Investigating Officer once in a week and shall cooperate with the investigation.

The application for bail being CRM 293 of 2019 is, thus, allowed.

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

(Hiranmay Bhattacharyya, J.)

(Harish Tandon, J.)

