

18.09.2020
Court No. 19
Item No.2
(D/L)
abhar/bdatta

CRM 6154 of 2020
in
CRAN 1 of 2020
(CRAN 4653 of 2020)
(Via Video Conference)

(allowed)

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure in connection with Sonarpur P. S. Case No. 114 of 2019 dated 29.01.2019 under Sections 326/307/120B of the Indian Penal Code and adding Section 302 of the Indian Penal Code read with Section 25(1)(a) and 27 of the Arms Act.
and

In the matter of: Sukumar Dey.

..... Petitioner

Mr. Siddhartha Sarkar.

.....for the Petitioner

Mr. M. Sur.

Mr. Aniket Mitra.

..... for the State

The learned advocate for the petitioner undertakes to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up.

The application being CRAN 1 of 2020 is accordingly disposed of.

The learned advocate for the petitioner submits that the co-accused namely Soumen Kayal @ Babu has already been granted bail by this Court on 19th November, 2019 in CRM 10274 of 2019 and, therefore, the petitioner standing on the same pedestal should also be granted bail. However, the learned advocate for the petitioner concedes that the earlier application for bail being CRM 4071 of 2020 filed by the petitioner was rejected on 17th June, 2020 on the ground of disparity but in fact, he could not produce the certified copy of the order granting bail to the co-accused.

The learned advocate appearing for the State though opposes the prayer for bail but fairly submits that both the

accused are standing on the same footing which would be evident from the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure including the recovery of the fire arms and the vehicle used for the alleged offence on the joint statements of the accused.

Considering the respective submissions and the materials disclosed in the case diary produced today, we find that both the co-accused are standing on the same footing. Though there is a recording in the order dated 17th June, 2020 in CRM 4071 of 2020 passed by a co-ordinate Bench that the petitioner does not stand on the same footing that of the co-accused but after perusing the order passed in CRM 10274 of 2019 dated 19th November, 2019 and the materials as indicated above, we feel that such finding appears to be erroneous simply on the ground of parity. Accordingly, we allow the prayer for bail.

The petitioner, namely, Sukumar Dey shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Baruipur on condition that the petitioner shall appear before the trial Court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever. In the event he fails to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel his bail automatically without reference to this Court.

The application for bail being CRM 6154 of 2020 is allowed.

(Tirthankar Ghosh, J)

(Harish Tandon, J.)

