

ADSL 5.
November 18, 2020.
SG

CRM 6697 of 2020
IA No.CRAN 1 of 2020
(via video conference)

In Re. An application under Section 439(2) of
the Code of Criminal Procedure.

In the matter of: State of West Bengal
...petitioner.

Mr Nuguive Ahmed
Ms Amita Gaur
... for the petitioner.

Mr Angshuman Chakraborty
Mr S.S. Saha
... for the opposite party.

The petition is for cancellation of the bail granted to the
opposite party herein by an order of October 25, 2019 passed
by the court of the Sessions Judge, Alipore.

The incident culminated in three persons losing their
lives to gunshot injuries. The opposite party was seen
brandishing a gun and firing shots. The opposite party was,
according to witness statements, one of the three principal
assailants, along with one Jakir Hossain Molla and another
Saiful Laskar. The State claims that bombs were hurled at
that time and the wearing apparel of the opposite party has
been found to be laced by traces of explosives.

Indeed, the Sessions Court in Alipore, after considering
the material produced against the opposite party herein,
concluded as follows:

“Considering the materials collected by the
I.O., I am of the view that there is a strong case. But
fact remains that there is no chance of immediate trial”.

One of the aspects to be taken into account while considering a petition for bail is the gravity of the offence and the nature of the incident. There is no doubt that despite the present disturbing trend, bail is still the rule and jail is the exception till a person is convicted. However, when there is a multiple murder case and there are credible allegations of a person being involved as closely as the opposite party here appears to be, bail is generally declined. There are other considerations for granting bail, including whether the person would have the capability of tampering with the evidence or threatening the witnesses. Even the antecedents of the person seeking bail are looked into.

There is no doubt that there is sufficient material to conclude that there is a strong prima facie case made out against the opposite party herein. Even the Sessions Court concluded as such. However, the mere delay in the trial being taken up cannot be the only ground to allow a prime suspect in a multiple murder case to roam around freely till his conviction is secured. The gravity of the offence would require such a person to not be left to wander freely in society, unless there are other compelling reasons.

On the basis of the material produced against the opposite party herein, the order impugned dated October 25, 2019 cannot be sustained. It must also be remembered that the order was passed before any lockdown due to the pandemic was put in place. The order dated October 25, 2019 is set aside and the bail granted in favour of the opposite party herein is cancelled.

It is recorded that the State has submitted that one of the key witnesses, who rendered a statement under Section 164 of the Code and named the opposite party herein in such

statement, has complained of harassment and threats by the opposite party herein.

CRM 6697 of 2020 along with CRAN 1 of 2020 are disposed of by cancelling the bail granted to Feroz Gazi.

The opposite party herein should surrender before the appropriate authorities as expeditiously as possible. The trial should be taken up within two months of the lockdown being incompletely lifted.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)