

24.09.2020
Court No. 16
Item No. 2
abhar/kmitra

CRM 6736 of 2020
in
CRAN 1 of 2020
(Via Video Conference)

(allowed)

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure in connection with Polba P. S. Case No. 25 of 2020 dated 14.02.2020 under Sections 279/337/338/308/304/109/419/420/468 of the Indian Penal Code and Sections 183(1)183(2)184/188/177/192A/197/194/194(1)of the Motor Vehicle Act and Section 18 of the West Bengal Motor Vehicle Taxes Act .
and

In the matter of: Prabitra Das.

..... Petitioner

Mr. Sanjib Mitra

.....for the Petitioner

Mr. Madhusudan Sur

Mr. Dipankar Pramanick.

..... 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 petitioner has been implicated in connection with the aforementioned case without any complicity to the offence and, in fact, has been languishing in jail for 223 days. It is further submitted that the charge sheet has already been submitted but the charges have not been framed as yet and, therefore, there is no necessity of keeping the petitioner in custody.

The learned advocate appearing for the State opposes the prayer for bail. It is submitted that the F.I.R. would reveal that the petitioner was driving the pool car recklessly, negligently, rashly and dashed the divider which causes the death of a child aged about 8 years. It is further submitted that the statements

of the persons recorded under Section 164 of the Code of Criminal Procedure would also reveal that the petitioner was driving the motor vehicle rashly without taking any proper care and/or precaution. However, the learned advocate for the State stresses upon the F.S.L. Report and submits that the prayer for bail should be rejected.

After considering the submissions advanced by the respective counsel and on perusal of the materials from the case diary produced today, we notice that a statement under Section 161 of the Code of Criminal Procedure has also been recorded treating the complaint as such and from the statements of the persons recorded under Section 164 of the Code of Criminal Procedure, we find substantial variance therein. However, the charge sheet has already been submitted but the charges have not been framed as yet because of the pandemic having struck globally. There is no justification in keeping the petitioner in custody after the filing of the final report (charge sheet). Accordingly, the prayer for bail is allowed.

The petitioner, namely, Prabitra Das 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 Chief Judicial Magistrate, Hooghly at Chinsurah on condition that the petitioner shall attend the case on each day of hearing and in the event of default on a single occasion, it is open to the learned Sessions Judge to cancel the bail without any further reference to this Court. It is further made clear that the petitioner shall not influence the witnesses nor shall leave the jurisdiction of the Court without prior permission.

The application being CRM 6736 of 2020 is allowed.

(Hiranmay Bhattacharyya, J.)

(Harish Tandon, J.)

