

25.09.2020

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CRM 6805 of 2020
CRAN 1 of 2020
(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi P.S. Case No.47 of 2020 dated 30.01.2020 under Sections 302/326/307/34 of the Indian Penal Code read with Sections 27/35 of the Arms Act.

And

In the matter of: **Mohiruddin Mondal @ Mohir.**

....Petitioner.

Mr. Sekhar Basu
Ms. Arushi Rathore

...for the Petitioner.

Mr. P.K. Datta
Mr. Santanu Deb Roy

...for the State.

The petitioner undertakes to affirm and stamp the petition as per the Rules within one week of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that a completely false case has been brought against the petitioner. Several grounds are cited, including that the complaint in this case is as a result of a previous complaint pertaining to an incident which took place about half an hour before the present alleged incident.

According to the petitioner, there was an incident at Saheb Nagar at about 9 am when the petitioner's father and brother were shot at. The petitioner's brother, Montu Mondal, suffered gunshot injuries, he had to be taken to the primary health centre and from there to the Murshidabad Medical College and Hospital. Montu Mondal has since been discharged.

The petitioner claims that the subsequent incident is alleged to have taken place at or about 9.30 am on the same day. At such time on January 29, 2020, certain miscreants are alleged to have arrived at the Saheb Nagar Bazar in a vehicle and fired at certain persons who were observing a bandh. The petitioner says that the falsity of the case is evident from the fact that even Montu Mondal was named in the FIR. The petitioner relies on the anticipatory bail order obtained from this court by Montu Mondal. According to the petitioner, vague allegations have been made and the petitioner's role is not clear. In any event, the petitioner claims that since the charge-sheet has been filed, the further detention of the petitioner may not be necessary.

It does not appear that the anticipatory bail order obtained by Montu Mondal has any nexus with the present matter. Montu Mondal got anticipatory bail since he was injured in the incident which took place half an hour earlier and he may not have been in a position to play any role in the incident that culminated in the present complaint. At the same time, it will be evident that as a backlash to the earlier incident, particularly because of the petitioner's brother being injured, the petitioner may have had sufficient motive to take action.

The State relies on eyewitness statements to the effect that the petitioner was one of the persons in a car which came with the occupants therein fully armed and threatening the shopkeepers in the locality to not observe a bandh. The statement of the daughter of the victim refers to the petitioner brandishing a firearm and to shots being fired in all directions and the father of such witness being struck in his chest.

Considering the nature of the incident and the role of this petitioner, even though it is possible the petitioner may not have intended to kill the person who died, there is sufficient basis to the petitioner's further detention. The observations herein are prima facie in nature and should not prejudice the petitioner at the trial. However, on the basis of the material now available, the petitioner does not qualify to be enlarged on bail.

CRM 6805 of 2020 along with the interim application therein are disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)