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18-11-2020

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Court 12

C.R.M. 7725 of 2020

(Via Video Conference)

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Town Police Station Case No. 352 of 2018 dated 17.08.2018 under Sections 395/120B/412 of the Indian Penal Code.

Sahin Biswas & Anr.

Versus

State of West Bengal

Allowed

Mr. Mrityunjoy Chatterjee, Adv.

...for the petitioners.

Mr. Rana Mukherjee, Adv.

Ms. Sujata Das, Adv.

...for the State.

The petitioners undertake to affirm and stamp the petition/application as per the Rules within one month of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

It is submitted on behalf of the petitioners that both the petitioners are in custody for more than 810 days and some of the co-accused persons have been enlarged on bail.

The learned Counsel for the State opposes the prayer for bail and submits that the prayer for bail of some of the co-accused persons was turned down by a co-ordinate Bench of this Court.

It appears that the application of the petitioner no.2 was turned down by a co-ordinate Bench on 28th January, 2019 on a prima facie satisfaction that the petitioners in CRM 1064 of 2019 were involved in committing dacoity of building materials from public works. However, the petitioner no.1 did not apply earlier. It appears that Nishant Kumar Jaiswal @ Bhola who was claimed to be the mastermind was initially denied bail by a co-ordinate Bench on 4th January, 2019 in CRM 17 of 2019, but a subsequent Bench on 24th June, 2019 granted bail to Nishant Kumar Jaiswal after taking into consideration that Nishant Kumar Jaiswal was in custody for about 315 days and he has been

impleaded in the case on the basis of the statement of the co-accused and also relying on the fact that the investigation of the case has been completed.

In view of such subsequent development and having regard to the fact that some of the co-accused persons, who are on the same footing as that of Nishant Kuamar Jaiswal and Raja Jaiswal, have been granted bail notwithstanding the fact that the trial is in progress and taking into consideration the protracted period of detention suffered by each of the petitioner and there is little possibility of the conclusion of trial in the near future, we are inclined to grant bail to the petitioners. The petitioners have also relied upon the order dated 27th November, 2019 in CRM 10648 of 2019 in the matter of Raja Jaiswal who stands on the same footing as that of the present petitioners. The co-ordinate Bench granted bail to Raja Jaiswal. It cannot be disputed that the present petitioners are standing on the same footing as that of Raja Jaiswal.

Let the petitioners be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat, North 24 Parganas subject to the condition that during bail, the petitioners shall appear before the learned trial court regularly till disposal of the trial and the petitioners shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail is thus allowed.

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

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)