

October 15, 2020
ARDR
Rejected

CRM 7940 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Sonarpur** Police Station case no. **694** of **2020** dated **02/09/2020** under Sections **341/195A/506(ii)** of the Indian Penal Code.

In Re : Soumen Kayal @ Babu,

... petitioner

Mr. Sekhar Basu, Sr.Adv.,
Mr. Diptangshu Basu,
Ms. Suchismita Dutta,

.....for the petitioner

Mr. Prasun Kumar Datta, A.P.P.,
Mr. Nirupam Dhali,

....for the State.

Mr. Shamik Bagchi,

..for the de facto complainant.

The petitioner is in custody for 24 days in connection with Sonarpur P.S. case no. Sonarpur Police Station case no. 694 of 2020 dated 02/09/2020 under Sections 341/195A/506(ii) corresponding to G.R. case no. 4921 of 2020 thereby rejecting the petitioner's prayer for bail.

It is submitted that the allegation in the First Information Report is that on 29/1/2019 at around 9.15 pm. the petitioner along with another person shot the daughter of the informant by firing bullets in front of the house of the informant. On 19/11/2019 the present petitioner was enlarged on bail by the Hon'ble High Court at Calcutta and other accused person is still in custody. On 29/08/2020 at about 2.15 pm. when the informant went to fetch the water from the local tap, the present petitioner arrived there on a motorbike and asked the informant not to depose before the Court as a witness and to

withdraw the case which the informant had lodged against the petitioner otherwise the petitioner held out threat to kill him at the exact spot where the petitioner killed the daughter of the informant.

This is what the allegation alleged by the de facto complainant who has been represented before this Court through video link and has raised serious objection in this matter.

Mr. Sekhar Basu, learned senior advocate appearing for the petitioner has invited my attention to the order dated 19/11/2019 passed by the Division Bench constituted by the Hon'ble Justice Joymalya Bagchi and the Hon'ble Justice Suvra Ghosh of this Hon'ble Court and considering the circumstantial evidence to be adjudicated at the trial, the petitioner was enlarged on bail by the said order in CRM 10274 of 2019. The allegation alleged was in connection with Sonarpur P.S. case no. 114 of 2019 dated 29/1/2019 under Sections 326/307/120B of the Indian Penal Code.

It is submitted that in view of the Hon'ble Supreme Court's dictum, when the petitioner is admitted on bail he cannot be further detained in connection with any other case or in connected case.

My attention is now being invited by learned advocate for the State advertent to the memo of evidence and the allegation as levelled in the First Information Report for the offence under Sections 341/195A/506(ii) of the Indian Penal Code and my

attention is invited to the statement of the witnesses under Section 161 as placed in the Case Diary.

Bearing in mind the allegation and the counter allegation and the rival contentions made on behalf of the parties and finding serious objection on the part of the State and so also from the side of the de facto complainant and further considering the gravity of the nature of offence relating to commission of crime under Section 302 IPC as per the charge sheet submitted in that case, the Court finds that earlier order granting bail was obviously not under Section 302 and may be that there may not have been material placed before the Hon'ble Division Bench. Since the gravity of the offence demands that the petitioner is required to be detained for the trial and in view of the serious apprehension created in the mind of the de facto complainant, in the interest of justice, petitioner should not be released on bail.

However, the learned Chief Judicial Magistrate is directed to commit the case to the court of Sessions as early as possible for enabling the Sessions Judge to hold the trial as expeditiously as possible.

Thus, CRM 7940 of 2020 is rejected and dismissed.

(Shivakant Prasad, J.)